





INDEX

TO THE

SUPPLEMENT

TO THE

CALCUTTA GAZETTE

FOR THE YEAR 1862.



Calcutta:

BENGAL SECRETARIAT OFFICE.

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TO THE SUPPLEMENT

TO THE CALCUTTA GAZETTE

FOR THE YEAR 1862.

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SUPPLEMENT TO The Calcutta Gazette.

SATURDAY, JANUARY 11, 1862.

OFFICIAL PAPERS.

A SUPPLEMENT to the GAZETTE will henceforward be published, weekly or twice a week, according to circumstances, containing such Official Papers and Information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.

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Government of Bengal.

Supply of Indian Cotton to England.

From H. L. DAMPIER, Esq., Secretary to the Board of Revenue,—(dated the 18th December 1861.)

Copy of letter from the Commissioner of Patna and the Collector's Report, together with the samples of Cotton Seed, forwarded to the Secretary to the Government of Bengal. Apparently the District of Behar is a good field for the growth of New Orleans Cotton.

From H. D. H. FERGUSSON, Esq., Commissioner of the Patna Division, to the Secretary to the Board of Revenue,—(dated the 23rd November 1861.)

SIR,—I HAVE the honor to forward, in original, a letter No. 193, dated 19th instant, from the Officiating Collector of Patna, on the subject of Cotton cultivation.

2. Mr. Lantour relates the result of actual experiment made by himself in the Gyah District.

3. The samples alluded to in the 13th paragraph of Mr. Lantour's letter are enclosed.

From E. F. LAUTOUR, Esq., Officiating Collector of Patna, to H. D. H. FERGUSSON, Esq., Commissioner of the Patna Division,—(dated the 19th November 1861.)

SIR,—I OBSERVE in the Supplement *Government Gazette*, dated the 16th of November, at Page 604, that Mr. Furrell has sent in a Report with reference to the cultivation of Cotton at Gyah.

2. I quite agree with him on one point, namely, that the seed distributed by the Collector in 1860 was bad. I tried it, and found it would not germinate. I obtained some New Orleans Cotton from a friend, who was supplied with it by Messrs. Atkinson and Co. I sent the Cotton to Calcutta, the produce of this seed, and it was valued at 5*d.* to 6*d.* per pound. The

season was against the crop, as we had only half the usual fall of rain. I believe the soil of Behar to be well adapted for the growth of Cotton, otherwise it would not have flourished so well in my garden, or in that of my neighbour (Mr. Hollings.)

3. The Manchester trade has for many years gradually shut out the weavers from the market, who have either emigrated or turned their labor to more profitable employment as agriculturists.

4. As the District of Behar has increased in prosperity and population, the cultivation of Cereals has largely increased, and waste lands have been brought under cultivation; but the cultivation of Cotton has been gradually neglected by the Ryots, the value of Cereals being greater in the market than Cotton. Cotton is cultivated along with other crops, but its yield is insignificant. The seed is used to feed cattle, and is to be bought in the Bazar. The cultivation of country Cotton might be improved; and I have no doubt the produce would be finer and more valuable in the market.

5. The proper time to sow New Orleans Cotton Seed is the end of May or immediately after the first fall of rain. It should not be sown later than the end of July. It has then the benefit of the rainy season, and if we have the usual fall of rain, the moisture is retained in the ground until the end of February or beginning of March, and by that time the first and second pickings are over. The Cotton picked in March and April is coarse, bad coloured, and not fit for the English market. I therefore, from experience in its cultivation, disagree with Mr. Furrell as to the necessity of constructing reservoirs and other means of irrigation, as I have found New Orleans Cotton not dependant on irrigation.

6. I tried the acclimated New Orleans Seed this year, and sowed it in July as an experiment. The plant thrived well, although the rainy monsoon was excessive; I commenced gathering in September, but leaving Gyah, was unable to secure the entire crop. I only gathered a few bolls, which were not perfect, owing to the excessive rain which fell in September.

7. Cotton prefers shade from the fierce sun of July, August, and September, and should be protected by sowing Indian-corn in every alternate row.

8. I am of opinion that New Orleans Cotton may be grown in any quantity in the Gyah District, and that its cultivation will be profitable to the Ryot, coming to that conclusion from experiments made by me on the poorest soil selected purposely. But the crop depends entirely on sowing the seed in June and July, and the seed should on no account be sown later than July, otherwise the plants become stunted, and the crop is not worth picking that season. It is a fair crop the second season, but nothing particular, and the produce is coarse, dirty, and not fit for the English market.

9. It is quite a fallacy to suppose much labor is required in cultivating this crop. The lands should be kept clean and free from weeds. It requires no more labor than that used in growing Cereals, and not one quarter the labor used in growing the Poppy.

10. Sea Island Cotton is perfectly useless; it grows into a fine shrub, but the bolls produce no Cotton.

11. Cotton is largely imported into the Gyah District from Mirzapore by water to Patna, and

thence across country on pack-bullocks and country carts. It is also sent from Mirzapore down the Grand Trunk Road on country carts.

12. The Ryots of Behar are indifferent to cultivate New Orleans Cotton, as they do not know its value. In fact, the cultivation is new to them, and they are prejudiced against it on that account. But that the cultivation of New Orleans Cotton can be profitably cultivated, I have no doubt, coming to that conclusion from certain experiments made by me in 1860 and 1861.

13. I have the honor now to submit, for the inspection of the Board of Revenue, two samples of Cotton grown by me at Gyah in 1860 and 1861.

14. First is that grown from imported New Orleans Seed and gathered in March and April. The first pickings were sent by me to Calcutta, and were favorably reported on by Mr. Stewart of Gillanders, Arbuthnot and Co., grown in 1860.

15. Second sample is Cotton picked in September, grown from acclimated Cotton Seed sown in July 1861.



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Foreign Department.

The Cultivation of Cotton in Mysore.

From C. B. SAUNDERS, Esq., Officiating Commissioner for the Government of the Territories of His Highness, the Maha Rajah of Mysore, to the Secretary to the Government of India, Foreign Department, Fort William, (No. 275, dated Camp at Anuntpoor, 14th December 1861.)

SIR,—I HAVE the honor to submit, for the information of His Excellency the Right Hon'ble the Viceroy and Governor General in Council, the following remarks on the subject of Mysore Cotton, and to solicit at the same time for the arrangement I have already made, as well as for the measures which I am desirous of adopting, the sanction and approval of His Excellency in Council.

2. When the subject of an increased supply of Cotton became one of more than usual importance, I made many enquiries regarding the cultivation of Cotton in Mysore, and learnt not only that several of the Talooks in the Northern parts of Mysore still continue to produce considerable quantities of indigenous Cotton, but that the New Orleans plant, when tried on a former occasion, by order of the late Commissioner, had produced a very superior staple, specially commended by the Jury of the Great Exhibition of 1851, and that the experiment of cultivating it had been abandoned solely because when the Native Gin was ascertained to be unequal to the task of cleaning New Orleans Cotton, Sir M. Cubbon found that it would not pay Government to maintain an Establishment for purchasing and cleaning the quantity then produced, for, it would appear, that on the occasion referred to the Mysore Government monopolized the Crop obtained from the New Orleans seed at a fixed rate, and itself became the Exporter or sole Agent.

3. Bearing in mind the necessity for holding out every fair inducement to the Ryots to cultivate more extensively the superior plant without deviating from the instructions of Government, which prohibit all direct interference with the cultivation or sale of Cotton, I felt that the practice formerly pursued was inadmissible; but, having ascertained beyond a doubt that certain large belts of land in the Northern and Central Talooks were highly favorable to the Cotton plant, I decided upon at once initiating indirect means of assistance which, I have every hope, will encourage the cultivators of Mysore, and will, by stimulating them to increased exertions, lead to the production, in 1862-63, of a Cotton crop of superior quality in many parts of the Province.—

1stly.—I have made arrangements for obtaining from Dharwar a large supply of the best seed of the New Orleans plant, which will be sold to the Ryots at cost price.

2ndly.—I have, through the Superintendents of Districts, notified to the Ryots of Cotton growing Talooks, that any waste land taken up for the cultivation of New Orleans or Egyptian plants will be given on half assessment for five years, and that Gins will be provided for cleaning the same at a fixed rate per Candy in one or more of the principal places in each Talook.

3rdly.—As it has been found that the great drawback to the cultivation in Mysore of the New Orleans or other foreign plant is the difficulty of cleaning it with the rough Native Machinery of this country, I have secured, as a temporary measure, for the construction of Saw Gins, the services of a Mr. W. Davis, who was, for many years, employed by a Bombay House as an Agent for purchasing Cotton, &c., in the Dharwar Country, and who is intimately and practically acquainted with the culture and preparation of Cotton for the home market, and is thoroughly conversant with the principal native languages of southern India, *viz.*, Telooogo, Canarese, and

Hindustani. The Saws have been written for to England, but the other articles required being obtainable on the spot, Mr. Davis has been instructed to establish a Workshop at Sheemooga for the preparation of the other parts of the Gins, so that, immediately on the arrival of the Saws from England, he may have every thing ready to at once set up a number of Gins and forward them to the Cotton growing Talooks; and it is anticipated that in this way each important locality will be furnished with a good Gin before the next crop is ready to be gathered. A man, on the part of Government, will have charge of each Gin, and the Cotton will be cleaned at a fixed rate per Candy to be settled hereafter, this will render the Gins self-supporting. A number of extra Gins will also be got ready to be sold at cost price to any enterprising Ryots who may wish to be in exclusive possession of Gins of their own.

4. On the part of the Mysore Government I have granted to Mr. Davis Rupees 300 monthly from the 28th of October 1861, and Rupees 2 per diem travelling batta so long as his services are required for constructing and setting up the Gins, &c., &c., and to this arrangement I would beg to solicit the sanction of His Excellency the Viceroy.

5. I have every hope that these measures will ensure a highly satisfactory result, and that the outturn of Cotton and increased prosperity of the Province will justify any small outlay on the part of the Mysore State which the indirect assistance above adverted to may, in the first instance, cause to be incurred.

6. There is, in addition to the foregoing, one suggestion which I am desirous of making, and which will, I trust, meet with the approval of His Excellency the Viceroy.

7. It is not probable that either the Madras or Bombay Government will allow the Mysore cultivators to compete for the prize of Rupees 10,000, which has been offered for the best sample of Cotton brought forward in these Presidencies. I

am anxious, therefore, that the Ryots of this Province should not be left without some stimulus such as their fellow cultivators have had held out to them in the surrounding Districts, and this induces me to propose that the Mysore Govern-

2	Prizes of ...	Rs. 500	1,000
5	" " " "	200	1,000
20	" " " "	100	2,000
20	" " " "	50	1,000
Total, ...		Rs. 5,000	

ment should be permitted to offer rewards amounting in the aggregate to Rupees 5,000. The Prizes to

range as marginally shewn. Each Cotton growing Talook to have three or four small Prizes allotted to it according to the extent under cultivation in the Talook. The seven large Prizes to be open to Cotton cultivators of any Talook of the Mysore Territory. The rewards will, of course, only be awarded in the event of the successful competitors fulfilling the conditions as to extent of area cultivated and description of crop, &c., which may be previously advertized. I look upon this plan as advisable in the case of Mysore, because in this Territory as yet no great stretch of Cotton cultivation is to be found in any locality, though numerous small and medium sized patches of the indigenous plant are to be seen in all parts of the Northern Talook.

8. I have only, in conclusion, to solicit for this proposition, and for my arrangements generally, the sanction and approval of His Excellency in Council.

From COLONEL H. M. DURAND, C. B., Officiating Secretary to the Government of India, Foreign Department, to the Officiating Commissioner for the Government of the Territories of His Highness the Rajah of Mysore,—(No. 24, dated Fort William, 17th January 1862.)

SIR,—In reply to your letter No. 275, dated 14th ultimo, I am directed to inform you that the Governor General in Council sanctions all the arrangements which have been made by you and the arrangements which you propose to make for the extension and improvement of the cultivation of Cotton in Mysore.



SUPPLEMENT TO The Calcutta Gazette.

SATURDAY, JANUARY 25, 1862.

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Home Department.

The Electric Telegraph.

From W. GREY, Esq., Secretary to the Government of India, Home Department, to the Secretary to the Chamber of Commerce at Bengal,—(dated the 12th June 1861.)

I AM desired to request that the Calcutta Chamber of Commerce will favor the Governor General in Council with their general opinion as to the efficiency of the Electric Telegraph for commercial purposes, and that they will be good enough to furnish a Statement of the total number of Messages sent or received during a given period, say from a week to a month previous to this date, by any Firms or Establishments connected with the Chamber, showing what proportion of them were delivered with reasonable punctuality and correctness, and in what proportion any delay or error occurred so material as to detract from the commercial value of this means of communication.

2. His Excellency in Council desires me to add, that if the Chamber have any suggestions to offer for the improvement of the Telegraph Department, the Government will be glad to receive them.

(A similar letter was addressed to the Chambers of Commerce at Madras and Bombay.)

From H. BROCKE, Esq., Secretary, Bombay Chamber of Commerce, to W. GREY, Esq., Secretary to the Government of India, Home Department,—(dated Bombay, the 5th August 1861.)

By direction of the Committee of the Chamber of Commerce, I have the honor to acknowledge receipt of your letter No. 1176, dated 12th June 1861, requesting a Statement of the total number

of Messages sent or received by the Members of the Chamber through the Electric Telegraph during a given period, and desiring suggestions for the improvement of the Establishment.

The Committee have circulated your letter to the Members, and have received Returns from twenty-five Firms giving the following results:—

Messages.			
Received with reasonable punctuality and correctness	...	...	274
With important errors or delays...	...	...	16
Unintelligible or so delayed as to be rendered useless	...	...	8
<hr/>			
Total received between 1st April and 31st May	...	...	298

Since the above period the delays have been very considerable on most of the Lines, but more particularly on that between Bombay and Calcutta, where Messages have not unfrequently taken six to eight days in transmission, and in several instances nine or ten days.

It appears to the Committee that where the contents of the Messages are of no value to others than the addressee, and where the construction of the Message is simple and grammatical, there is but little ground for complaint; but it would seem that where the temptations to divulge the contents of important Messages were considerable, and had been systematically brought to bear on the employes, their integrity was found to give away.

The Committee feel it difficult to suggest to Government a remedy for this state of things; but as complaints of similar delinquencies are not frequent in England, they would venture to suggest that the Establishment of a Secret Committee under the guidance of an experienced Officer trained in England would probably have the effect of bringing to justice the real authors of these frauds. At the same time the Committee believe that an increased rate of salaries to the

lower officials, with the prospect of rewards for exemplary conduct, would raise the general character of the Establishment, and greatly promote its efficiency.

A copy of the Return by the Members is herewith forwarded for your information.

Number of Telegrams received by Indian Telegraphs during the two months from 1st April to 31st May by the following Firms:—

HOW DELIVERED.

Names of the Firms.	With reasonable punctuality and correctness.	With important errors or delays.	Unintelligible or so delayed as to be rendered useless.
Messrs. Ritchie, Stuart & Co.	27	3	1
" William Nicol & Co.	29	None.	None.
" Robert Strong & Co.	11	"	"
" Wallace & Co. ...	11	2	"
" W. & A. Graham and Co. ...	16	None.	3 useless from delay. 1 unintelligible.
" A.H. Hushike & Co.	10	1	None.
" Lyon, Brothers & Co.	6	1	"
" Finlay, Scott & Co.	15	None.	"
" Lawrence & Co. ...	11	"	"
" Leggatt & Co. ...	4	"	"
" Killick, Nixon & Co.	2	"	"
" S. Burstall & Co.	6	1	1
" W. J. Morgan & Co.	5	None.	1
" Stearns, Hobart & Co.	11	8	1
" Watson, Bogle & Co.	164	16	8
" Alex. C. Brice & Co.	18	Since 15th May the delays have been unusually great, probably caused by the monsoon.	
" Grey & Co. ...	6	None.	None.
" Cardwell, Parsons & Co. ...	4	"	"
" G. S. King & Co. ...	We receive but few Messages, and so far as we recollect we have no great ground for complaint.		
" Volkart, Brothers ...	33	Names several times misspelt	None as far as we remember, but recently the delays have been great.
" Mackindoe, Rogers & Co.	5	None.	None.
" Campbell, Mitchell & Co. ...	9	"	"
" Robinson & Co. ...	35	All "pretty correct.	"
P. & O. S. N. Company ...	A great number—no record kept	None.	"
Commercial Bank of India...	Of the period enquired about we would not complain, but since the 30th April the delays have been very frequent; one Message from Calcutta of the other day took nine days to come across.		
Chartered Bank of India, Australia, and China ...	...	Many—especially from Calcutta	Three or four within last week.
Agra and United Service Bank	No return..	None.	None.

From W. R. ARBUTHNOT, Esq., Chairman of the Madras Chamber of Commerce, to W. GREY, Esq., Secretary to the Government of India, Home Department,—(dated Madras, the 7th August 1861)

I HAVE the honor, on behalf of the Madras Chamber of Commerce, to acknowledge the receipt of your letter of the 12th June, in which you apply to the Chamber for its opinion as to the general efficiency of the Electric Telegraph for commercial purposes, and you request that it will furnish a Statement of the total number of Messages sent or received during a given period, say from a week to a month previous to the date of

your letter, by any Firms or Establishments connected with the Chamber, showing what proportion of them was delivered with reasonable punctuality and correctness, and in what proportion any delay or error occurred so material as to detract from the commercial value of this means of communication. You further state, by desire of His Excellency the Governor General in Council, that if the Chamber have any suggestions to offer for the improvement of the Telegraph Department, the Government will be glad to receive them.

I regret that I have been unable to procure the statistics for which you apply, the Mercantile Firms at this place not having anticipated the enquiry that has been instituted, and having kept therefore no separate record of the Messages received and despatched by them. In the hope, however, that the information may still be useful, I have requested the Members of the Chamber to record day by day their experience of the working of the Department for the current month of August, which I hope to do myself the honor of forwarding to you early in September.

The opinion of the Madras Chamber upon the general efficiency of the Electric Telegraph for commercial purposes is on the whole favorable.

Messages are occasionally delivered in language more or less mutilated, and for the deciphering of which the context would of itself be insufficient without a pre-acquaintance on the part of the recipient with the subject matter. Errors too, arising from evident inattention of the Signallers, but which might be productive of serious consequences, such as the substitution of the word "hundred" for "thousand," "four" for "five," and *vice versa*, sometimes occur. Still, however, I have pleasure in repeating that, upon the whole, as far as I have been able to ascertain the views of the Madras Chamber, the Department has given satisfaction, and in this Presidency we have had no complaints of the Messages being tampered with. Of the irregularities that do occur, I may confidently state that a large preponderance would be found in the messages transmitted from Calcutta and Bombay, while the Southern and South-Western Lines have been comparatively free from them. I have also grounds for believing that the Messages sent from hence to Calcutta would be considerably more numerous than they are, were it not for a want of confidence which, to a certain extent, prevails in regard to the prompt receipt of the reply Telegrams.

The frequent interruption of the North Coast and Calcutta Line has been felt to be one very serious drawback to its satisfactory working. On a late occasion the interruption extended over a period of a week, if not ten days, and this of necessity occasioned very great inconvenience.

Whatever may have been the causes in times past of such long continued interruptions, it is hoped that a remedy prompt and effectual may be applied.

Believing that the expediency of Telegraph Stations being opened at every important Commercial Port along the Coast has been fully recognized, the Chamber would take this occasion to bring to the notice of the Government that Cuddalore, the chief Station of one of the most important Collectories in this Presidency, and through which the Telegraph wires are already carried, is still deprived of the advantage referred to.

There are two other practical suggestions with which I will conclude. They are as follows:—

1st.—That the date and hour of despatch of a Telegraphic Message be included, if required, free of expense to the sender.

2ndly.—That in the case of Messages delivered in an unintelligible shape, a refund be allowed, even though the repeating charge may not have been paid. The Public at present has no redress unless the higher charge has been levied, and the tendency of this arrangement is to make the Signallers careless in the case of ordinary Messages.

From H. W. I. WOOD, Esq., Secretary, Bengal Chamber of Commerce, to W. GREY, Esq., Secretary to the Government of India, Home Department, (dated the 14th August 1861.)

I HAVE the honor to acknowledge the receipt of your letter No. 1168 of the 12th June, relative to the Telegraph Department, which has been circulated very generally among the Commercial Establishments of Calcutta; and I am directed by the Committee of the Chamber of Commerce to submit the following observations for the consideration of His Excellency the Governor General in Council:—

The Committee consider that the Electric Telegraph Service of India is deficient in the two great points which can alone render it valuable either to the Government or the Commerce of the country, namely, despatch and accuracy in transmission. The Committee can only speak practically as regards the latter, and in support of their opinion they append, for the information of His Excellency the Governor General in Council, the opinions of most of the leading Merchants of Calcutta upon this subject. It is not easy to understand why the working of this service should not have improved during the six or seven years which have passed since it was first opened to the Public; but with some exceptions the Committee, from every-day experience, believe such to be the case. They are well aware that the superior Officers in charge of the service are men of ability and zealous for its efficient execution; but in consequence of what the Committee believe to be the cause of the present unsatisfactory working of the system, namely, defective construction and bad organization, the exertions of these gentlemen are neutralized, and but of little value to the Public. The Committee are of opinion that if the construction of the line had been entrusted to persons thoroughly conversant with the European system, and not to men who, as far as this particular system was concerned, were mere theorists, the chief defects now evident would have been avoided. Can it be expected that the Telegraphic communication for all India can be maintained with any thing like correctness or despatch when the means of transmission is limited to the use of a single wire?—and when this wire is employed by Government for many hours, as it frequently is, private Messages must necessarily be detained, and their correctness endangered by the delay.

As regards the gross errors which so frequently occur in the Messages, the Committee believe they are to be attributed to the mistaken policy on the part of the Authorities who, for economical reasons, have thought proper to employ at low salaries, as Signallers and Copyists, persons, chiefly Natives and Eurasians, whose want of education and proper training renders them unfit

for the appointments which they hold. The Committee are also informed that the Inspectors employed are not sufficiently numerous to keep up an efficient supervision of the several lines in work.

It is generally believed by men practically acquainted with the working of the European system, an opinion in which the Committee fully concur, that Telegraphic communication in India would be worked more satisfactorily and profitably to the Government and the Public if it was entrusted to private enterprise, for which capital could readily be found in England.

Extracts from the Opinions of the several leading Merchants of Calcutta.

IN reply to your letter of the 18th instant, we beg to say that the first thing required, in our opinion, for the improvement of the Telegraph Department, is that the Superintendent should be ordered to be present in some part of the Establishment, whence he can superintend its working, and where he will be accessible to the Public. Major Douglas at present sits in a room at the top of a three-storied house—the whole working of the Telegraph is carried on below on the ground floor. It is manifest, therefore, that he cannot be the least aware of the manner in which the work is done. On your wishing to have access to Major Douglas on business, (*sic*) is compelled to give a card to a Peon at the bottom of the stairs, who carries it up to Major Douglas, and in time returns with permission to climb to the top of the house: this time being generally from ten to fifteen minutes, during which the victim has to walk about a dark damp passage without even any thing to sit down upon.

It appears to us that the work of a Telegraph Office is, of all others, one which requires constant superintendence and appropriate accommodation, without which no good system can possibly be carried out. We should, before any other change, recommend that a convenient Telegraph Office be at once provided by Government without which the work can never be efficiently performed.

IN reply to your Circular regarding the Electric Telegraph, we beg to record our opinion that the two leading faults of which the mercantile community have a right to complain, are frequent delays in the transmission of Messages, and an extraordinary want of intelligence on the part of those who reduce them to writing.

In a few Messages which we lately exchanged with a Firm at Madras, we find the following absurd blunders:—

Hydrabhay for hydraulic,
Containing for contain,
Publication for application,
Ball for bale,
Celling for calling,
And thirthieth for thirteenth,

These six errors occurred in four messages.

With regard to the efficiency of the Telegraph for commercial purposes, we think that, as it is at present managed, a Merchant incurs a grave responsibility who acts upon any Telegram the purport of which does not tally with his pre-conceived notions, or, in other words, that if a Message reports an unexpected high or low rate of prices, it is probably a blunder of the Telegraph, and cannot safely be acted upon.

With reference to your Circular dated 18th June, I beg to say I have no evidence to give of the working of the Telegraph Department for the time for which Government require it, *viz.*, from a week to a month previous to 12th June; but former experience warrants my joining in what I believe to be the general opinion, that the Telegraphic Department has been culpable of gross neglect.

That the system of Telegraphic communication in India has not improved as regards the correctness of the Messages and the time occupied in their delivery during the last five years, is a fact to which I believe the Public will generally bear testimony. The Merchants and Bankers certainly will.

The experience of one month in the year hardly conveys an adequate idea of the almost daily blunders which occur in the transmission of Messages on all the Lines, especially those received from Bombay and Madras, blunders which are liable to cause losses of great magnitude to the persons sending or receiving the Telegrams. The following is an instance of this, but other facts could be adduced in which the errors were more numerous. I can only speak positively to the messages received, but there have been complaints from Bombay in regard to those despatched :—

17th May to 17th June.

Messages to and from Bombay and Galle—21 received and 17 despatched.

On the 16th, from Galle, *hundreds* were quoted instead of *thousands* of ounces.

On the 29th, from Bombay, unintelligible on 11th June, 6 days en route, and quite incorrect.

On 15th June ditto ditto.

Four out of those received were not only useless, but in the instance of one Message we had a narrow escape of serious loss,—as though the Message received was found when compared with original received from Bombay incorrect, yet the sentence was so connected as to remove any doubt of its correctness when received; luckily a later Message was received the same day which led me to doubt the accuracy of the first.

We shall be obliged by your submitting, for the information of the Chamber, the following case of imposition,—for we consider it nothing less on the part of the Electric Telegraph Office:—

We received this morning a Bill for Rupees 7-5 for a Message alleged to have been sent to our address from Bombay. The number of the Message not appearing on the face of the Bill as usual, we returned it with a memorandum requesting the information, and were informed in reply that "the message did not reach Calcutta." We then asked why we were called upon to pay for it, and were again informed in reply that "the Message was duly sent from Bombay, but appears to have been lost on the road!" Our only course was to pay the Bill, which we have done, and now enclose it and the memorandum for your inspection.

We make constant use of the wires in directions, and taking last month as a criterion, receive or send on the average sixty-four Messages monthly, each ranging in length from 16 to 100 words, in many of which errors to a greater or lesser extent occur; but on the whole we are satisfied with their general accuracy.

We therefore confine our complaints to the following, received within the last few days, which we have brought to the notice of the Telegraph Officials without obtaining a satisfactory explanation of the cause of the blunders made in transmission:—

A Message by letter from Mauritius, and correctly given for transmission by our Agents in Galle, quoted a certain staple export *four* dollars per bag, quoted in the Telegraph Message it is given as *five* dollars per bag. We are aware that a neighbouring Firm received a similar Message in which the same error occurred, and we cannot regard this error otherwise than a wilful one on the part of some in the employ of the Telegraph.

A Message transmitted from London by letter to Bombay gives us a limit of *two* thousand pounds, which is delivered to us as *one* thousand, and the only satisfaction we can obtain is the same as given in the former case.

Attention ought to be called to the state of the Lines between Calcutta, Akyab, and Rangoon, and to the alleged fact that between this and Jessore the wires are suspended on slim bamboo poles which give way in every storm. This Line has been virtually closed for months past through constant interruption.

Our experience of its operations has led us to the conclusion that, for commercial purposes, it is not of the least use as at present conducted. The two great essentials to render it valuable to commerce being wanting, *viz.*, certainty of transmission within a proper time, and the correct delivery of Messages. We have found that Messages by Telegraph have frequently reached their destination only a few hours before the copy of the same by Post, and sometimes not until after the copy by Post had been delivered. And frequently Messages are so distorted and rendered unintelligible that they are not of the least use when received.

For these reasons we have not of late made use of the Telegraph as a means of communication, trusting in preference to the slower but more certain delivery of Messages by the Post.

We *do* get a few Telegraph communications occasionally; but we have *never yet received one* that was of any use to us, being either totally unintelligible, or utterly useless from being "too long on the road," generally *both together*.

Our Messages are very often too late and behind time. We had several Messages from Akyab when the cable was *in order*, which occupied from eight to nine days!

We have continual causes of complaint for mistakes and omissions in telegraphing our Steamers, and have recently on more than one occasion brought them officially to the notice of Major Douglas, but without effecting any reform. On a recent occasion also our Madras Agents telegraphed to us, prepaying for our reply. Our Clerk through inadvertence paid here for our reply, and on pointing out the double payment and demanding a refund, Major Douglas on the 11th June informed us he could make no refund here.

We have a very unsatisfactory account to give of our Telegrams. They are *often late*, sometimes missing, and rarely correct.

We have had frequent cause of complaint.

Our experience leads us to place little or no confidence in the Telegraph Office as a means of transmitting Messages.

The Messages we receive are frequently unintelligible, particularly those from Galle. We think that if the hour of despatch was stated in the Messages, it would be an improvement and a wholesome check to irregularities.

We do not think that the Electric Telegraph Department can be considered as "efficient for commercial purposes" as it ought to be, and as it might be made, and there is still a sufficient amount of *uncertainty* about the receipt and transmission of Messages as to prevent its being used as much as it otherwise could be, and to constitute a great drawback on its usefulness. It is not nearly so well conducted as in England or America, where mistakes and delays are rare indeed, and though in India it probably never will attain to the same degree of efficiency as in those countries, we think it is much more behindhand than it ought to be.

At the same time we are far from thinking it as inefficient as many may probably suppose it to be from the way in which it is abused in the Newspapers,

and from the cases there given (no doubt correctly) where it has failed; these cases of *failure* attract attention, but when all goes on well no notice is taken.

We have referred to our accounts, and find that in 1861 we have sent Telegrams to *Ceylon* 19, *Bombay* 7, *Madras* 5, *Mirzapore and other places in India* 9, *Melbourne via Galle* 6, *London* 10=56 in all. These are Telegrams the *result* of which we know. We may have received, about half the above number, and the result is that the Telegrams have generally been sent and received pretty fairly in point of time, and that the words have come generally accurate enough to be intelligible, in most cases very nearly correct, and in a good many cases quite correct. Some Lines appear to be served much better than others; for instance, Calcutta to Colombo; we have sent nineteen Messages, and received twenty in reply, and they were mostly in good time, and nearly all correct; probably this may be partly owing to the fact that all were to the same house and all on the same subject. When delays and mistakes have occurred in this and former years, we have generally found them to be where we have parties telegraphed to for the first time, or upon new subjects. For two years we have been sending Messages to a house in London always on same subject, and they always reach regularly and correctly. Lately we sent to Bombay, for London, three Telegrams at same time, one to this house, and two to new houses. Anticipating difficulty, we had written in the beginning of the year to Superintendents at Bombay and Galle, and sent lists of all houses in England to whom we expected to telegraph, in order that there might be means of correcting mistakes in names. Notwithstanding this, our Telegram to the *old* correspondent arrived correctly, but those to the *new* ones only reached a fortnight later and were of no value. Recently we had a Message six days coming from Bombay, and one was sent from Mirzapore, and has never been received by us at all. With these three exceptions we have no special cases of complaint, but in all three it appears to us that there must have been great carelessness.

Where Messages are *incorrect*, it seems generally to arise from want of intelligence on the part of some of the employes of the Department. We make allowance for mistakes in case of new and difficult matters, but such *stupid* blunders are sometimes made as would seem to show that the parties making them can hardly understand the English language, such blunders as are never made in England, and which the possession of ordinary intelligence would avoid.

We have referred to our own private experience of the working of the Department, but we are all interested in Public news, and we think the Department is freely entitled to claim credit for the generally accurate despatch of Public news from England, China, &c., and of commercial advices to the Chamber of Commerce from England, Bombay, and China; in the *China* quotations, however, mistakes are made more frequently than they ought to do.

We do not use the Telegraph as much as we would do if it were more accurate, and we believe it might be made much more accurate by the employment of better men, and their better payment necessary to secure a better class. We believe the Department *pays* a *profit* at present, and if so, it would be only just to improve it: we believe it would pay well also to do it, as many more Messages would be sent. In cases of proved neglect, what is paid for Messages certainly ought to be refunded, and part or the whole of such refund should be deducted from the pay of the person in fault. Good men should be employed, they should have good pay, and be told that they would lose part if they committed serious fault. This is the system in the Bank of England in the Cashier's Department, or used to be. The Clerks were paid "risk money;" if they over-paid a Cheque or lost money in other

ways, they were liable to make good the loss; if they made no mistakes, they kept the risk money. We think that if some such plan were tried here, it would be well,—the good men would like it. At present it takes some time and trouble to write in with particulars of complaint, and all that is ever got is an expression of regret, the announcement that no money can be returned, and an intimation that the culprit has been reprimanded. We have generally sent in complaint ourselves, but we know of others who do not, considering that it is only waste of time as well as of money.

In reply to your favor calling on us for an expression of our opinion as to the efficiency of the Electric Telegraph for commercial purposes, we regret to say that we have no great faith in the utility of the Department while under its present management, as through the frequent disappointments we have met with in consequence of the delay, or unintelligible state of our Messages, we have almost ceased to make use of this means of communication, of which we would gladly and frequently avail had we any assurance that we could do so with the certainty that our Messages would meet with even ordinary care in transmission. As it is, we are doubtful of the expediency of paying heavily for Messages with a great chance of their miscarrying, or which may be delivered at a time not only to be of no use, but possibly of harm, as the features of the matter of which they treated may have altered. We have suffered considerably ourselves by the length of time our Telegrams to Akyab, Galle, and other places have been in transit, and we have been put to much inconvenience lately by a Message from Galle to our address not having reached us until five days after its date, and then in an unintelligible form. It ran thus:—"Muster for Leeds, no shillings for Graham." The Superintendent refused to ask for a repetition, though the wording in its present form is meaningless, and has no reference to our business; and when we inquired if we must pay for this worthless affair, the reply was, that "if you do not pay, you will never receive another bearing Message." In answer to our complaints to the Superintendent here, we have generally been sent printed circulars, giving us no satisfaction or explanation whatever.

Not only in the working of the Telegraph itself, but in the commonest details of the Office, the greatest carelessness seems to exist, for so late as yesterday we received a letter addressed to us, enclosing a returned telegram intended for Messrs. Mackinnon, Mackenzie and Company, while that Firm were sent a message intended for us.

In answer to your Circular letter of date 25th instant, wishing our opinion with regard to the efficiency of the Electric Telegraph for commercial purposes, we have to state that our own experience of the irregularity and incorrectness with which very many of our Messages have been forwarded, has caused us to conclude that this Department of Government has been inefficiently wrought. Not a few of our intended telegrams never reached their destination; and the same applies to Messages intended for us from other Stations. Many were incorrectly forwarded, leaving the receivers only to guess at the meaning, and some were quite unintelligible.

Regarding the punctuality and correctness in the transmission of Messages by the Electric Telegraph, we have to bring to the notice of the Chamber that a Message from London, despatched from Bombay on the 9th instant, reached us only yesterday evening, taking nine days for transmission; while the copy of the above Message came to hand yesterday morning by the usual Bombay Mail.

On several occasions we had to complain of the general management of the Telegraph Office for irregularities; we have always been told by the officials that we have to make our complaint either to Galle or Bombay, as the fault was never with them, threatening to stop all our Messages if we did not pay for those that either we were over-charged for or they came in an unintelligible language.

Despatched from Calcutta.	For Steamer.	Leaving Galle.	Reached Galle.	No. of days' transmission.	Remarks.
25th May 1861	about June 1st	...	June 3rd	4	too late.
10th June	"	"	12th Bombay	...	Refused, because the line was interrupted.

Received in Calcutta.	Despatch from Bombay.	Transmission.	Remarks.
1st June 1861	30th May	2 days	We have seldom received an English Mail Message in less time.
18th "	8th June	10 "	This Message took the same time as the Express letter which it was intended to anticipate.

We have not tried the Electric Telegraph much of late, because of the unsatisfactoriness of the working of it. Above is a note of our latest Messages and their result.

We have had frequent cause of complaint regarding our Messages from Saugor and Galle, those from the latter Station being frequently twenty-four hours and more behind the last of the public news. We have also had to complain that the rule which provides for private Messages being sent off in the order in which they are tendered is apparently little regarded in the Galle Office, and our experience of correspondence with the Department for redress of grievances (even when made in the most specific form) is most unsatisfactory. The compulsory insertion in a telegram of the date and hour at which it was despatched would, we think, be a practical benefit, and be generally acceptable even if adding slightly to the cost of the same.

We receive Messages from Bombay on arrival of every Mail, which occupy three or four days in reaching us, besides receiving and sending Messages from and to Bombay and other places very often. With one or two exceptions they never have reached their destination at the time they should have done so, and sometimes Messages that have been sent have never reached at all. We complained at first, but never got any satisfaction, and of late have kept no record.

From W. R. ARBUTHNOT, Esq., Chairman, Chamber of Commerce, to W. GREY, Esq., Secretary to the Government of India, Home Department,—(dated Madras, the 7th October, 1861.)

With reference to my letter of the 7th August, I have now the honor to annex a Return of Telegraphic Messages received and despatched during the month of August, as furnished to me by three Establishments—two of them Houses of Business, the third a Joint Stock Bank.

Return of Telegraphic Messages.

Messages received in August... 133

Of that number one Message from Akyab came to hand in an unintelligible shape and with figures altered and mutilated. Another from Rangoon was also scarcely intelligible, and two more contained trifling errors.

Messages despatched... 139

The fate of these Messages is thus reported—
Never delivered... 2

Of which one was addressed to Kamptee and another to Tuticorin.

Serious and unexplained delay... 1

The above was a Message despatched 30th August to Kamptee, but not delivered till 6th September.

Unremarked upon and therefore presumed to have been duly delivered... 136

From LIEUTENANT-COLONEL C. DOUGLAS, Officiating Director General of Telegraphs in India, to W. GREY, Esq., Secretary to the Government of India, Home Department,—(dated the 9th November 1861.)

REPLYING to your No. 1800 of the 28th September last, forwarding copies of communications from the Chambers of Commerce at Calcutta, Madras, and Bombay, and requesting my opinion on the propositions contained in them for the general improvement of the Department, and whether I consider there is any line which could, as an experimental measure, be conveniently entrusted to a private Company.

2. In the letter from the Calcutta Chamber there is no definite proposition made. The allusion to the indifferent working, which the Chamber anticipate will continue so long as a single wire is the only means of communication, points to the desirability of employing a greater number. I have already alluded to the advantages to be derived from a second line to Bombay in my No. 1526 of 12th September 1861, and the earliest opportunity will be taken on the arrival of the new insulators, which it is understood are on their way from England, to report upon their efficiency or otherwise for insulating a double set of wires in the same supports in view to the sanction of Government being obtained to the employment of an additional wire on the Bombay Line.

3. The Calcutta Chamber attribute the "gross errors which so frequently occur in the Messages" to the employment of Natives and Eurasians. From the evidence of the Complaint Office, I do not consider that gross errors are frequent when compared with the number of Messages transmitted, which during the past official year were 2,40,451 exclusive of those on Departmental service. The complaints regarding errors only, during the same period, were 139, and this, although any obstacles that may have been supposed by the Public to exist to redress in such matters, may fairly be considered to have been removed since the establishment of the General Complaint Office in 1860, and which was in efficient operation during the entire period alluded to by the Chamber. In justice to the Signallers I must remark that, in consequence of the absence of insulation, and the difficulties resulting from the great distances between contiguous Offices, communication is sometimes only possible with Signallers skilled to recognize a word from two or three of its letters, and in this way correspondence has frequently to be carried on during the rains. Of course, this is only possible with the best Signallers.

4. Among the complaints in the extract from the opinions of the leading Merchants of Calcutta, brought prominently forward as examples, I notice that four refer to the changing of figures, and are as follows:—

Thirtieth	for Thirteenth.
Hundreds	" Thousands.
Five	" Four.
One thousand	" Two thousand.

The liability of the Telegraph to mistakes of this nature is pointed out in Clause XVI. of the Rules

of the Department, and the means suggested to lessen the risk of errors in this particular are laid down for the guidance of senders of Messages, and where the recommendations there given have been acted upon, I have never known a single instance of error. The European public, although well aware that repetition is desirable for the correct transmission of numbers, persistently neglect the inexpensive insurance obtained by this method, or by giving the doubles or the halves, and I can only ascribe this to some such reason as that lately given to me by the Manager of a local Bank in conversation with reference to an error in numbers which had caused loss and inconvenience. It was to this effect: That so few errors occurred in their unrepeatable Messages that they did not think it worth their while to pay for repetition. The only remedy for this state of things is for the Department, in justice to itself, to do what its customers decline doing, and to make it a rule that in all cases of proper names, numbers or words used in the abstract and without connection, and where no aid is consequently afforded by the context to the detection of error, that repetition of such words be given by the Department without charge. Some such rule is indispensable if the Department is to be held responsible for the refund of all Messages in which errors are made. The Chamber allude with reference to errors to the "mistaken policy" of employing Natives and Eurasians. Without importing lads from England, Natives and Eurasians must be employed. The mass of our Signallers are Eurasians, the sons of persons in humble circumstances, and doubtless many errors may be attributed to the limited education of these classes from which alone, as a rule, the Signalling Branch of the Department has hitherto been recruited. Assuming that there is no intention of importing lads from England, I believe that a larger introduction of Native Signallers would be an advantage. The recent experience of the Barrackpore Training School has shown that the Natives, who have presented themselves for admittance into the Department, possess, as a rule, a better knowledge of English than the class of Eurasians who usually seek employment in the Telegraph. Although the pay of the former on the scale lately introduced is only half that of the latter class, it has been found sufficient to obtain for the Barrackpore School all the Native Probationers that were required.

4. I consider the chief cause of error to be the youth of the mass of the Signalling portion of the Department, a consequence of the rapid extension of the lines, and perhaps to carelessness resulting from dissatisfaction on the part of those employed, and consequent frequent resignations. I attribute this feeling to the late short-handed condition of the Department which led to excessive work, and also to the knowledge of the Signallers that, under such circumstances, their services could not be dispensed with. This knowledge led to insubordination, and its natural result, dismissal. Another cause of error is doubtless that to which I have before alluded, *viz.*, the defective education of the classes from which the Signalling ranks are filled.

5. The number of lads that have been trained during the past season, by increasing the strength of the Offices, has rendered it possible to dismiss insubordinate Signallers, and as every Signaller

now dismissed is debarred by Departmental orders from re-entering the Department, there is now more hesitation in leaving than was formerly the case.

6. Something may, however, be attributed to the method of receiving Messages by sound. Under circumstances otherwise similar, I am inclined to the opinion that receiving by sound admits of at least equal accuracy to that of receiving by sight, but in the former, if a Signaller mistakes a word or hesitates as to its meaning while thinking what word should be put down, several others immediately following, as well as the word on which the doubt arose, will escape his attention, and will be put down inaccurately rather than let the course of the Message be interrupted, and this is especially the case when a junior and comparatively unskilled Signaller is receiving from an impatient and smart senior. In receiving by sound it also frequently happens that the Signaller, after receiving the first three or four letters, assumes the idea present in his mind as to what the word will be as correct, and neglects to notice any change in its termination. This is particularly the case with words ending in the plural number, and with such words as "battery," "repeated," "currency," which are liable to be changed into "battalion," "repealed," and "currently," and to any others with similar terminations. There was this great disadvantage in receiving by sight from the original Morse instrument, *viz.* that the signs were not colored as in ordinary writing, but were merely embossed impressions on plain white paper which were at no time very legible, and were frequently almost illegible either from the light being bad, or from its not falling in the required direction, or from the difficulties which the adjustment of the apparatus necessary for the production of clear indentations offered to Signallers: nevertheless, even under these disadvantages, the system of reading from the embossed tape does appear to have secured greater accuracy than receiving by ear, a result ascribable to the circumstance that under the former plan the receiver need not have the capacity of receiving as smartly as the transmitter that of sending, as the Message, on being written down, could be read at leisure. The re-introduction of the system of reading by eye would, I consider, with the present instruments, be impracticable, as I feel convinced that the loud click of the apparatus would have the same effect on the Signaller accustomed to receive by ear who attempted to copy from the tape, as that of a person speaking in the hearing of another writing. The introduction, however, of the new French instruments, the click of the armature of which is nearly inaudible, and by which the Message is written down on paper in a black pigment will, I have reason to hope, lead to greater accuracy than hitherto, and this the more so as our Establishment is so very largely composed of recently admitted and half-trained lads with whom correct receiving by ear is still a matter of difficulty. It must not, however, be supposed that by any system not purely and entirely mechanical error can be entirely avoided. At each Station at which the Messages has of necessity to be repeated, whether it be received by eye or ear, it must be written down in ordinary characters on paper, and errors arise both in this writing down and in the reading of what is written by the Signaller who has the duty of sending it on. A double line would materially contribute to reduce this class of

error by permitting the exclusive use of one line for through Messages only, thereby diminishing the number of repeating Stations, and reducing the proportion of error from the causes just referred to.

7. The Madras Chamber make two propositions:—

1st.—“That the date and hour of despatch of a Telegraphic Message be included, if required, free of expense to the sender.”

2nd.—“That in the case of Messages delivered in an unintelligible shape, a refund be allowed even though the repeating charge may not have been paid.”

8. The first proposition is already in force with regard to Service Messages, and I have for some time had a proposal in view to extend the arrangement to private Messages by charging for every word in the address instead of only for certain words as at present, and giving the date free in every instance.

9. Regarding to the second proposal, I consider that the present repetition charge is heavy, and that both it and the night charge might be reduced, the former to 50 per cent, and the latter to 25 per cent upon the ordinary Message instead 100 per cent as they both are at present. If the Government desire, I will offer no objection to the proposal to give refunds for errors on unrepeat Messages being experimentally introduced, limiting the refund to that portion of the Message rendered unintelligible, and to cases in which it is clear that the portion has been rendered worthless by the error. This principle of partial refund on repetition Messages has lately been introduced in consequence of its having been found that persons have not scrupled to claim refund for the whole value of a Message in which a single word only had been erroneously transmitted. If the concession in the charge for repetition and night charge above suggested be approved, I think that the proposal to give refunds on other than repeated Messages might, for the present, be held in abeyance.

10. The proposal of the Bombay Chamber has reference to the late frauds in that Presidency. As the recent cases are the first which are known to have occurred since the establishment of the Telegraph in 1855, it does not appear to me desirable to appoint “a secret Committee, under the guidance of an experienced Officer trained in England,” in view to bringing the real authors of these frauds to justice, more specially as they appear to be well known, and a want of evidence alone prevented their being brought to trial at the time of Piell and Allen’s conviction.

11. With reference to the concluding paragraph of your letter, the Bengal Chamber are of opinion that “telegraphic communication in India would be worked more satisfactorily and profitably to the Government and the Public if it was entrusted to private enterprise.” In no part of the world, with the exception of England and America, are the lines of Telegraph in private hands; and I do not consider that a mixed ownership of the system of lines on the Continent of India would be at all satisfactory either to the proprietors or the public. There are already several lines of Telegraph in private hands, I allude to those of the several Railway Companies which have power to transmit private Messages in all cases where the Government have no co-ordinate lines. Should, however, other private Companies desire to undertake Telegraph

management, there is no line which could be so conveniently made over to them as that connecting Calcutta with Rangoon and the local lines in that Province. These lines connecting three very important places of commerce, Calcutta, Akyab, and Rangoon, with the advantages of possible extension to the Port of Moulmein appear to hold out every prospect of being remunerative, and the fact of the Telegraph Lines in Pegu being very largely used in official correspondence, owing to the tardiness of Postal communication, offers additional prospect of profit. Should the Government decide on such a transfer, I think it as well to mention that the Offices are being weeded of unfit Signallers, and provided with the best Instruments, and I have little doubt but that by the end of the year both Establishments, Instruments, and Lines will be in good order, and the business of the Lines ready for immediate transfer to a private Company. I may add that a Line on which I have been requested by the Bengal Government to report, *viz.*, an extension of the Calcutta and South-Eastern Railway Telegraph from the Port of the Muttah to the mouth of that River, might also, if decided on, be advantageously transferred to a private Company.

Of the Lines and Offices in India generally some (I may instance those hence to Bombay) are much more than self-supporting. There are others, however, which can expect no business except that derived from the Government. These are Lines established for political objects only, such as that from Lahore to Peshawur. The value of the political services rendered by these Lines may be considered by the Government as an equivalent for their cost, but no returns they are likely to yield at any early date would offer any encouragement to a private Company to be connected with them.

I assume that the reasons which might incline the Government to make over a portion of the Lines to a private Company are, that such an arrangement would secure a more honest and economical administration than it is in the power of the Government to command. I do not believe there are any grounds for expecting either result. The English Telegraphs are not free from the imputation of dishonest trafficking with the news committed to them for transmission, and the history of English Railways and other Joint Stock Associations, both in England and other Countries, I think, proves that while business, if within the compass of a single individual, is as a rule much more economically conducted than it ever could be by Government, there is no reason for believing that where the extent of the business requires the resources of a Company for its management, the administration would, in any respect, be more efficient or more economical than if under the management of the Government.

From W. GREY, Esq., Secretary to the Government of India, Home Department, to H. W. I. WOOD, Esq., Secretary to Bengal Chamber of Commerce,—(dated the 15th January 1862.)

SIR,—I AM directed to acknowledge the receipt of your letter dated the 14th of August last, replying to my communication No. 1168, dated the 12th of June.

2. The Chamber was requested in my letter of June to favor the Government with their general opinion as to the efficiency of the Electric Telegraph for commercial purposes, and to furnish a

Statement of the total number of Messages sent or received during a given period by any Firm or Establishment connected with the Chamber, showing what proportion of them were delivered with reasonable punctuality and correctness, and in what proportion any delay or error occurred so material as to detract from the commercial value of this means of communication. It was intimated also that the Government would be glad to receive any suggestions the Chamber might have to offer for the improvement of the Telegraph.

3. The Chamber, it is presumed, has been unable to furnish the Statement of Messages which the Government asked for, as no such Statement accompanied your letter, or has been received since.

4. The Committee of the Chamber, in reply to the request for their general opinion as to the efficiency of the Telegraph Department, state that they consider the Department deficient in despatch and accuracy, though, they add, they can only speak practically as regards the latter. In support of their view on that point, extracts from the opinions of several leading Merchants of Calcutta are submitted with your letter.

5. The Committee observe that they believe the unsatisfactory working of the Department to be owing to "defective construction and bad organization," and they express an opinion that if the construction had been entrusted to persons conversant with the European system, and not to mere theorists, "the chief defects now evident would have been avoided." The defects of construction here alluded to are not specified in your letter. It is urged, however, and perhaps this is meant as an instance of defective construction, that neither correctness nor despatch can be expected when the means of transmission are limited to a single wire.

6. With regard to the organization of the Department, the Committee comment on "the mistaken policy on the part of the Authorities who, for economical reasons, have thought proper to employ on low salaries as Signallers and Copyists persons chiefly Natives and Eurasians, whose want of education and proper training renders them unfit for the appointments which they hold." The Committee add that they have also been informed that the Inspectors are not sufficiently numerous to keep up an efficient supervision of the lines.

7. Lastly, the Committee state their opinion that "Telegraphic communication in India would be worked more satisfactorily and profitably to the Government and the Public, if it were entrusted to private enterprise, for which capital could readily be found in England."

8. Your letter and its enclosure, as well as the replies received from the Madras and Bombay Chambers of Commerce to a similar communication addressed to them by Government on the same date as that abovementioned to the Bengal Chamber of Commerce, have been communicated to the Director General of Telegraphs, and that Officer has furnished a Report on the subject, a copy of which and of the replies received from the Chambers of Commerce at Madras and Bombay I am directed to transmit for the information of the Chamber, and at the same time to communicate the conclusions of the Governor General in Council on the several points discussed in the correspondence.

9. It has for some time been in contemplation to put up a second wire on the line between Calcutta and Bombay, but the Governor General in Council is quite prepared to sanction the construction of an independent Telegraph on that line (which of all others presents the most likely prospect of a remunerative business) by a private Company if any persons are willing to undertake it. Six months, it is presumed, is sufficient time to allow for the formation of such a Company, and if within that time measures are seriously taken for effecting the object in view by private enterprise, the Government will abstain from putting up a second wire, and will promise not to compete with any private line in that direction by reducing below the present rates,—or below the rates adopted by the Company if they should be lower than the present rates,—the charge made on Messages between Calcutta and Bombay, or between any two places at which Offices connected with the private line may be established.

10. It must be understood, however, that the license to be granted for the erection of a private line of Telegraph between Calcutta and Bombay would include a condition enabling the Government, whenever necessary, to claim priority of transmission for all public Messages at the same rate of payment as that charged to the public generally. Subject to this condition, there would be no objection made by the Government to the construction of private lines of Telegraph in any direction from one part of India to another.

11. The Governor General in Council is not prepared to make over to any private Company or individual any Government line of Telegraph already existing or projected, because he thinks it of the greatest importance that at least one medium of Telegraphic communication between all the most important places in India should be in the hands of the Government, and entirely under the control of its own Officers. His Excellency in Council thinks too, advertent to the suggestion made by Colonel Douglas in the 11th paragraph of his letter, that it would be inconvenient to make over either the Hooghly or the Mutlah River lines to a private Company, as these lines are chiefly occupied with Messages relating to the business of the Port. Should it be thought, however, that, exclusive of this business, there is sufficient correspondence to occupy a second line, there will of course be no objection to the construction of such a line by a private Company.

12. With regard to the employment of a different class of Signallers on the Government lines, and especially with regard to the substitution of European for Eurasian and Native agency, I am directed to call the attention of the Chamber to the remarks made by the Director General in paragraphs 2 to 6 of his letter, and to observe that, while it is impossible without reckless extravagance, and an entire disregard for the fair claims of all classes to public employment for which they are qualified, to substitute Europeans for Eurasians and Natives as Signallers in all parts of the country, it is also certain that, for the mere business of signalling, Natives of India are as apt as any other class, and that under proper supervision they perform the duty as well as Europeans. For the higher situations in the Department, it has been and will continue to be the

object of the Government to avail itself of European agency as far as possible, and the Director General will be authorized to employ trained European Signallers in the principal Offices, where the extent and nature of the business require the presence of men of higher education, and possessing other qualities in which, generally speaking, the Natives of India are found to be deficient. Natives are largely employed as Signallers on the Railway Telegraphs, and it is certain that no private Company could hope to make a line of Electric Telegraph in India profitable as a commercial enterprise if it were to employ European Signallers exclusively, or even to any great extent.

13. The training of Signallers in India, so as to secure a constant supply of qualified persons, is an object which has engaged the careful attention both of Colonel Douglas and his predecessor, and it is one of which the importance, I am instructed to state, will not at any time be lost sight of. It may be confidently expected that as the supply of qualified Native probationers becomes fully equal to the great and increasing demand for their services, a result which the present rates of pay and prospects of promotion seem likely soon to accomplish, instances of inaccuracy and want of despatch, so far as they are attributable to defective agency, though impossible under any circumstances entirely to prevent, will be reduced to a minimum.

14. The Chamber will observe from the 3rd paragraph of Colonel Douglas's report that the absence of insulation of the wires is referred to as one of the difficulties to be contended with in India in the correct transmission of Messages. The question of insulation, I am directed to state, will be brought to a practical test, as soon as the new insulators now expected from England arrive.

15. The Governor General in Council is desirous that it should be brought prominently to the notice of the Chamber that it is almost exclusively in the case of unrepeat Messages that any cause of complaint arises, and that where repetition is resorted to mistakes do not occur. His Excellency in Council has now resolved, in accordance with the suggestion made by the Madras Chamber of Commerce, to allow refunds on unrepeat Messages on the same conditions as those

* The errors which chiefly occur are in the numerals, such as *sixteen sixty, thirteen thirty*, owing to the sound and first three or four letters being similar. To obviate this, it is recommended that in all financial or money messages the sum be given in two forms, halving or doubling the amount, thus, "Pay to my order Rs. 500 or half 1,000." When this is done, an error is of very rare occurrence.

on which refunds are given in the case of repeated Messages, with the further proviso that no refund will be given for any error in an unrepeat Message arising from wrong figures being given, unless the precaution advised in the 16th No.* of the Telegraph Rules shall have been adopted.

16. With reference to the suggestion contained in the 9th paragraph of the Director-General's letter, that the repetition charge should be reduced from 100 per cent to 50 per cent. extra, I am to observe that this reduction has been already carried out, repetition being now charged for at half price only, or 50 per cent. extra. The Governor General in Council sees no sufficient reason for reducing the night charge, which is also sug-

gested by Colonel Douglas in paragraph 9 of his report, this charge being made on a wholly different principle from that on which the repetition charge rests.

17. In modification of the proposal made by the Madras Chamber of Commerce, the date and hour of despatch *from the Telegraph Office* will in future be inserted on every Message, free of expense to the sender, without any alteration in the present mode of charging for the address. The senders may still continue to date their Messages if they please, but the sender's date, if inserted, will be charged for as at present.

18. On the whole, the Governor General in Council thinks it must be admitted by the Chamber, that, considering the disadvantages under which the Indian Telegraph labors, especially the difficulty of obtaining a sufficient and constant supply of properly trained and qualified Signallers, and the system of non-insulation* which has been bequeathed to it under a belief that insulation in India was practically unattainable, its general efficiency, as the Madras Chamber of Commerce observes, is favorable. Out of 2,40,451 Messages conveyed in 1860-61, only one hundred and thirty-nine (139) were complained of as erroneous, a proportion which is .0575 per cent., or little more than $\frac{1}{4}$ per thousand; while of the Commercial Messages delivered in Bombay during April and May last 92 per cent. were received with reasonable punctuality and correctness, $5\frac{1}{2}$ per cent. with important errors or delays, and only $2\frac{1}{2}$ per cent. so delayed or mutilated as to be useless. And the statement furnished from Madras of Commercial Messages received at and despatched from that place during August last is, it will be seen, even more favorable. The Governor General in Council by no means concludes that 139 represents the real number of Messages in which mistakes occurred in 1860-61; but seeing that the Rules of the Department allow of refunds for repeated Messages delivered in an unintelligible state, and for all Messages in case of non-delivery or unjustifiable delay, it can hardly be denied that the proportion of complaints to the number of messages despatched does afford some criterion of the general efficiency of the Department. The statements regarding the commercial Messages delivered in Bombay during April and May, and those received at and despatched from Madras during August, I am to observe, are derived from the Returns which the Bombay and Madras Chambers of Commerce have been good enough to furnish in compliance with the request contained in my Circular letter of the 12th of June last, and the testimony which they afford therefore to the fair efficiency of the Department cannot be doubted.

19. It is, however, freely and fully admitted by His Excellency in Council that there is great room for improvement, and that instances of Messages delayed, mis-delivered, and inaccurately or unintelligibly rendered, are of much more frequent occurrence than they ought to be. The Establishment has been recently re-organized and placed on a better footing as regards pay and promotion,*

* Financial Resolution, dated 10th December 1861. and the Government relies upon Colonel Douglas and the higher Officers of the Department to use

* The annexed extract of a letter from Colonel Douglas regarding the difficulty experienced on uninsulated lines in wet weather has been subsequently communicated to the Chamber of Commerce.

the utmost care and vigilance in preventing mistakes, to investigate thoroughly every complaint, to visit every instance of proved neglect with suitable punishment, and to endeavour unremittingly to make the Telegraph thoroughly efficient by promptly remedying such defects as can be corrected with the means at their disposal, and by suggesting to Government all other practicable measures required for the purpose.

Extract from a letter from **LIEUTENANT-COLONEL C. DOUGLAS**, Officiating Director General of Telegraphs in India, dated 3rd December 1861.

I WOULD wish to say a word here on the subject of imperfect communication and its causes. By imperfect communication is meant that owing either to the absence of insulation, or defective insulation, or to unfavourable weather, or, in the case of lines well insulated, to deposits of moisture on the insulating surfaces resulting from an excessively damp state of the atmosphere, a loss of the electric current occurs, and it is found impossible to send to the distant station a current of strength sufficient to affect the receiving instruments there with that certainty necessary for uninterrupted correspondence. In such cases, some of the dots and bars composing our letters, as it were, drop out, and the word of which they form a part is rendered unintelligible, or it may occur that from the same cause a letter becomes split up into two, producing similar confusion.

From the above it will be seen that imperfect communication is not limited to uninsulated lines; it may occur under certain circumstances of weather with those lines that are provided with even the best known means of insulation. In densely populated countries where the distances between Telegraph Offices are short, this difficulty is overcome by employing large battery power, but over the enormous spans of the lines in India it is practically and theoretically demonstrable that no amount of battery power would be sufficient, under the circumstances I have mentioned, to force a current sufficiently strong for effectively working any instruments hitherto practically employed for Telegraph purpose.

The following Extracts from "Prescott's Theory and Practice of the Electric Telegraph," published in America in 1860, will illustrate the facts I have just stated:—

Extract No. 1.—"Upon a long telegraphic circuit there is a constant tendency for the current upon the line to pass off into the earth, this passage of the current into

"the earth we call 'Escape.' There are no lines in the world, probably, certainly none in the United States, whose insulation is so perfect as not to be more or less affected by this Escape. It is much greater during wet weather; but all lines are more or less affected at all times."

Extract No. 2.—"During very wet weather, however, unless the line be very well insulated, a great portion of the current escapes; and it sometimes happens that a battery of fifty cups of Grove can scarcely affect the armature of a sensitive electro-magnet at a distance of even one hundred miles, the remainder of the current escaping, a little at each pole, during this entire length of line."

Extract No. 3.—"It does not matter how perfect our apparatus is in other respects; if the insulation is defective, it is a constant source of annoyance, and causes, oftentimes, great loss of business. Much can be done by increasing the power of the batteries, and by distributing them along the line; still the disagreeable fact ought not to be withheld, that in rainy or foggy weather not one of our telegraph lines in this country is reliable, or, if they work at all, it is only from one short Station to another, and that with much difficulty. But this is also the case in England, France, Germany, in a word, in every country where the Electric Telegraph has been introduced."

Extract No. 4.—"Our principal lines work very well during dry weather, when in fact scarcely any insulation beyond the dry poles is needed; but let a shower even come up, and all the wires are seriously affected by escape."

"It is not an unfrequent occurrence during the rainy season, for all communication between the important cities of New York and Boston by the wires to be suspended, notwithstanding there are no less than eight direct lines extending between the two places."

The above Extracts will, I doubt not, be considered as authorizing the expectation that imperfect communication during severe rainy weather is a sufficient explanation of the bad working of our uninsulated Indian lines which has been so frequently a cause of complaint during the past rainy season.



SUPPLEMENT TO The Calcutta Gazette.

WEDNESDAY, JANUARY 29, 1862.

OFFICIAL PAPERS.

A SUPPLEMENT to the GAZETTE will henceforward be published, weekly or twice a week, according to circumstances, containing such Official Papers and Information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.

Non-Subscribers to the GAZETTE may receive the SUPPLEMENT separately, on a payment of six Rupees per annum if delivered in Calcutta, or twelve Rupees if sent by Post.

No Official Orders or Notifications, the publication of which in the GAZETTE is required by Law, or which it has been customary to publish in the GAZETTE, will be included in the SUPPLEMENT. For such Orders and Notifications the body of the GAZETTE must be looked to as heretofore.

Government of Bengal.

Contracts for repairs of Government Buildings and all ordinary Public Works.

From LIEUTENANT-COLONEL J. P. BEADLE, Officiating
Chief Engineer, Bengal, to the Superintending Engineers,
—(Fort William, the 22nd January 1862.)

SIR,—UNDER instructions from Government, I have the honor to request that arrangements may be made for introducing a system of Contracts for executing the repairs of all Government Buildings and all ordinary Public Works at and near to the principal Stations of your Circle.

In order to promote this scheme, I request that you will select the Stations at which you think Contractors would be likely to come forward, and where afterwards, if not at first, there would be a competition sufficient to secure the system working well.

It will be expedient to frame the Contracts on the basis of Schedule rates, and the Agreements might be made for one year certain; leaving it optional with the Contractors to continue the Contracts at the same Schedule rates for an additional period of one or two years.

The Contracts to be first made should take effect from the 1st May 1862.

2. After determining the Stations, the first steps will be for the Executive Engineer to prepare a correct list of all the several descriptions of work that may possibly be required in the repairs of buildings and in the construction of ordinary works, affixing to the items the fair local rate for each description of work.

A corresponding Specification of each description of work should be prepared.

A Statement should also be prepared, shewing, as near as can be estimated, the quantity of work of each description annually required. This Statement would be for information only, and not as binding the Government in any way.

3. Tenders should then be invited in the most public manner possible, advantage being taken of the Presidency and local papers, notices being also affixed in the most public places of the several Stations; copies of the Schedule of works and of the Specifications should be open to inspection at the Offices of the Chief Engineer, of the Superintending Engineer, and of the Executive Engineers, for at least one month before the date for receiving Tenders, which should not be later than the 1st of April next.

4. Tenders should state the rate per cent. at which Contractors may be willing to undertake the work either above or below the Executive Engineer's Schedule, taken as a whole; separate rates per cent. will not be allowed for separate items of work.

It will be discretionary for Superintending Engineers to separate the items of the Schedule, and to call for two or more separate Tenders for any one Station and the vicinity, say within a circle of nine miles. Superintending Engineers are requested, at as early a date as practicable, to report to the Chief Engineer the maximum rate at which they recommend that Tenders should be accepted. Upon this report orders will be communicated, and within the amount so fixed, the lowest Tender might be accepted by the Superintending Engineer without further reference.

5. As one of the conditions, adequate security should be required for faithful performance of Contracts, payments for work done might be made on half-monthly Bills, to be paid within one week. Certain limits might be fixed, ruling the maximum quantity of work of each kind which the Contractor can be called upon to execute within a

given time, and also the minimum rate of progress to be made. The Superintending Engineer's decision on all points should be final.

6. The satisfactory introduction of this system will depend mostly upon Departmental Officers being fully up to their work, so as to be able to specify it with accuracy, and to give proper working drawings when required.

Much also will depend on the Departmental Officers laying out the works accurately, and measuring the works in progress with regularity.

The goodness of the materials, and of the work, will depend entirely upon their practical knowledge and vigilance—their responsibilities will not be lessened, but, in the matter of Accounts, the work and troubles of the Department should be very much diminished.

7. The introduction of the Contract system will stimulate industry and steady enterprise, and afford an opening to experienced practical men. The Government desires very much to see the plan, herein sketched out, well on foot, and its progress and development will be watched with interest.

Public Works Department.

Establishment Charges.

FROM LIEUTENANT-COLONEL H. YULE, Secretary to the Government of India, Public Works Department, to MAJOR CHESNEY, Officiating Inspector General of Accounts and Member of the Civil Finance Commission,—(dated Fort William, the 14th January 1862.)

SIR,—UNDER arrangements made in this Department with the sanction of His Excellency the Governor General in Council, you are about to proceed to visit and inspect the Account Offices of Nagpoor and Oudh.

2. But it appears to the Governor General in Council that your official visit should extend to the Punjab and to the North-Western Provinces, and that the scope of it should go beyond that of a mere inspection of the Offices of Account, and should embrace the discussion with the Local Officers of certain subjects of moment, which have lately, as you are aware, been much before the Government of India in this Department, chiefly relating to the heavy charges for Establishment in several of the Provinces.

3. You were selected as a Member of the Civil Finance Commission during the occupation of that body in the special investigation of this matter, and it is understood that the Report of the Commission on the subject will soon be submitted to Government. Such additional orders as may be necessary on that Report will follow you; but as your journey should not be longer delayed, I am now directed by the Governor General in Council to communicate to you the following remarks and instructions, of which a copy will be sent to the various Governments concerned.

4. In Public Works Department letter to the Punjab, No. 2301 of the 29th June 1861, on the subject of the heavy Establishment charges in that Province, it was pointed out that it had cost nearly $5\frac{1}{2}$ annas to spend a Rupee during 1859-60, and that according to the Estimates it would cost $4\frac{3}{4}$ annas to spend a Rupee during 1860-61.

5. This way of putting the matter was adopted as apt and impressive for the purpose, and having a great amount of general truth. But it is admitted that the question is not a simple one, and that the percentage of our Establishments to our expenditure is not by any means closely analogous, as is often assumed, to the percentage of the cost of collecting a tax on the proceeds of the tax.

6. As long as the *Executive* Establishment alone is in question, it is difficult to draw a very sharp line between the man who does work and the man who supervises it. The mason and the digger there is no question about; they handle the trowel and the spade. The cost of their labour is the cost of *work*. But the man who handles the level and theodolite, who lays out a road, or a bridge, and sees that its execution is accurate, comes under the head of *Establishment*.

7. Again, our Establishment charges embrace a good many items of expenditure which have little in common except their consisting in a monthly issue of pay. Parties employed on surveys or the projection of works come under the head of *Establishment*, but the cost of such operations has only a very remote relation, if any, to the whole cost of work done in the Province. And even where the whole duty of an Establishment is not of this character, a part of its duty may be so, as almost every Executive Officer will to some extent be employed in the survey and projection of new works, and so far the apparent percentage charge upon the *work* done will be unduly enhanced.

8. So also, Establishments maintained at ferries and boat bridges, in watching canals, locks, and embankments, and even the Revenue Establishments of our Irrigation Canals in Upper India, though the latter have been distinguished in a sub-heading, have been lumped in the Budget item of *Establishments*.

9. Not long since, in consequence of certain circumstances which were brought to the notice of Government by the Secretary in this Department, the Government of Bengal was strongly urged to maintain a responsible and intelligent subordinate at each of the unbridged rivers on the Grand Trunk Road, to whom all travellers and carriers could look and apply as answerable for the convenient maintenance of the arrangements for crossing. The charge for these Subordinates will probably swell the percentage of Establishments in Bengal. But it has no relation to the amount of money spent on works in Bengal. It is a charge debitable to the comfort of travellers and the convenience and despatch of traffic. And a proportion of the pay of the Engineers over those Subordinates is doubtless justly due to the same.

10. There is a great deficiency of data for comparison of our Establishments with those of any similar body. There appear to be no English data that will have apt application, because the universal existence of contract and of professed Builders and Contractors affects the whole basis of comparison.

11. Further, in this country manual labour which makes the cost of *works*, is cheap; intelligent labour, which makes the cost of much of the Establishment, is dear. This tends to heighten Establishment charges.

12. These remarks are made in order that it may not be thought that the real difficulties of the subject are overlooked. The Governor General in Council is aware that a hasty judgment, disregarding facts of this kind, would not tend to promote a durable reform.

13. And in this complex state of things it is difficult to lay down a rigid standard to which the percentage charge of Establishments should be brought, though obviously the comparatively low standard at which the charge has been kept in some Provinces marks a level to which the Government would aim to bring down all.

14. But to take up the matter effectively the whole of the facts must be brought forward. This is not so at present. There is known to be in some Provinces a considerable amount of Establishment charged directly to the works, and which does not appear in the Departmental Budgets and Progress Reports, not being paid on separate Establishment Bills. Rules to remedy this were proposed some time ago in this Department, and have lately been received back from the Financial Department (whose approval was necessary) and issued, these will enable the matter to be dealt with in its real dimensions. But the first result will be to swell the magnitude of the apparent charges.

15. The natural tendency of Establishments to grow beyond just bounds must be met by a minute and critical review of the details of charge in each Province periodically repeated. But there are two prominent and definable causes of the heavy amount of these charges to which the Governor General in Council desires most earnestly to draw the attention of the Local Governments.

16. One is the diffused character of the expenditure.

Where a number of petty works and repairs, spread over a wide extent of country, form so considerable a part of the work of the Department, the proportionate cost of Establishments must be large. In the Resolution of Government in this Department on the Budgets of the current year (paragraph 22), it was pointed out specially for the consideration of the Local Governments whether a much larger amount of work of various kinds not requiring engineering skill might not with advantage be left in the hands of Local Officers. This had already been done with complete success and considerable saving in the case of the Frontier posts of the Punjab. But the general suggestion has borne very little fruit, and it appears necessary to press it by personal conference, discussion of the localities where such remedies are applicable, and indication of specific tracts and places for their application.

17. But this diffusion of small jobs is not that to which the Governor General in Council more particularly alludes in the present remarks. He refers to the larger operations, the making of roads and bridges, and larger public buildings.

18. In railway making, the more rapid progress of which is frequently quoted to the disparagement of this Department, the system followed in the assignment of funds is, briefly stated, this:—that there is a certain work to be done, and that all that can be properly spent in getting it done may be spent upon it at once. There is no other limit to the money to be supplied than the

limit of work that can be done in the year. The result is, of course, that there is great and palpable progress, and that it is possible to keep Establishment charges at a comparatively low percentage.

19. In the departmental assignments to the different Provinces there is, on the other hand, an absolute limit to the money, and one soon reached. The whole amount for the Lower Provinces of Bengal to be spent on hundreds of works and innumerable repairs is not a fourth of that to be spent during the same year on the Railways in those Provinces alone.

20. Still the same principle should be followed as far as possible. Fewer works should be taken up at a time, and all spent on them that can be properly spent, until they are got out of hand and added permanently to the available resources of the country. Contrary to this, it seems to the Governor General in Council that the Local Governments are too prone to assign a lakh here, and a half or a quarter lakh there, with an Executive Officer to each assignment. Of course, then, there is little progress and a heavy charge for Establishments. In fact the Establishments, to a certain extent, grow in inverse ratio to the amount of finished and available work resulting.

21. In the earlier years of the Ganges Canal, when the heavier works of that project were going on, funds were supplied much in the same way as has been stated above to be the practice with regard to Railways. And the result of this concentration of expenditure was as good progress as on any Railway, with Establishment charges kept very low.

22. Some diffusion of work cannot be altogether avoided over so vast a country, in which so many things have to be done at the charge of the Imperial Treasury; and the temptations to the various Governments to give way to local calls are very strong, and sometimes cannot be resisted. Yet the Governor General in Council is satisfied from all that he sees of the work of the Department that this principle of the concentration of resources, often as it has been impressed of late years, is very far indeed from being sufficiently attended to; and he feels that he cannot enforce it too earnestly or too persistently.

23. Deficient attention to this is one of the causes which leads to another mischief. The limit of the Budget assignment is often not worked up to, even by Governments which have remonstrated strongly against that limit as too narrow. This is a two-fold evil. Not only is some other Province, which would have gladly and beneficially availed itself of this margin of credit, deprived of this advantage, but whilst less work is done than was proposed and expected, the Establishments scarcely ever fail to be maintained to the full pitch, and the percentage of Establishment charges thus swells beyond even the liberal bounds of the Budget programme. There would be much less liability to such miscalculations were the work and expenditure more concentrated.

24. The other point referred to by the Governor General in Council, as tending to maintain costly Establishments, is the comparative rarity of work by contract.

The general Establishment of the execution of work by contract would have advantages beyond the reduction of Establishments which it should facilitate.

25. The old system of working in this Presidency had some considerable advantages to Government. An estimate was sanctioned at such and such rates. The Executive Engineer carried out the work and sent in his bill for so much work done at such and such rates. If he exceeded the estimate, he had great difficulty in getting his bills passed and in some instances the theory that he was liable for the excess was enforced in practice. Thus he was a Contractor whether he would or no, and without profit. This made it a simple matter to deal with charges in general, but it was an unjust and demoralizing system.

26. Our present system of accounts is in theory as good as we are likely to get and is improving in practice. But it is cumbrous, and would become unmanageably so with any great extension of the work of the Department beyond its present development. The more general and extensive use of contract appears to be essential to any such great extension. Contract would also render it more easy to restrict the scope for that peculation among subordinates which is undoubtedly very prevalent.

27. A system of contract cannot be forced into existence, but something can be done towards its introduction by promoting the invitation of tenders on certain specified works of considerable extent, such as lines of road or large bridges. Undoubtedly the prices will be high, probably at first *much* higher than the work of the Department itself would cost; and this may induce reluctance in Officers who take a just pride in keeping down the rates of their work from heartily promoting it. But these high prices must be encountered, if necessary, for an object so important. As Contractors multiply and competition arises, the rates will sink to a proper level.

It may also be possible in certain localities to obtain Tenders for annual contracts for the execution of repairs of every kind. Indeed, this is already done at some Stations. Means should be taken to extend the practice.

28. The remarks made in the preceding paragraphs bear directly on the instructions which I am to convey to you.

In your visit to each Province you will, after reporting your arrival for the information of the Lieutenant-Governor or Chief Commissioner, and soliciting any special instructions that he may desire to give you, go thoroughly into the matter of Establishments in conference with the Chief Engineer and the Local Head of the Accounts Department, classifying and analyzing the Establishment Lists, and the duties of each individual, with reference both to the amount of expenditure and to other pertinent circumstances. You will also discuss personally and with reference to specific localities how far Establishments may be reduced by entrusting minor scattered works to the Civil Officers, or by similar remedies. You will ascertain how far, on what system, and with what success use is made of contract at present, and consider with the Chief Engineer on what specific works of magnitude it would be most advisable to seek for Tenders. And you will with the Local Officers review the expenditure in each Province in relation to that principle of more concentrated effort to which the Governor General in Council attaches so much importance.

29. During all your inquiries you will act in association and conference with the Local Officers, and you will endeavour to make such proposals as secure their assent. But your report to the Government of India will be your own and not a joint report. The Governor General in Council is aware that the attention of several of the Local Governments has been directed to the objects of this inquiry; he believes that your visit with these instructions from the Government of India will strengthen their hands in carrying them out; and he knows that after this distinct expression of the views and objects of the Governor General in Council, you will find hearty co-operation from the Officers of every Local Government.

30. You will draw up and submit your report in regard to each Province as soon as possible after your visit to it is completed.



SUPPLEMENT TO The Calcutta Gazette.

SATURDAY, FEBRUARY 1, 1862.

OFFICIAL PAPERS.

A SUPPLEMENT to the GAZETTE will henceforward be published, weekly or twice a week, according to circumstances, containing such Official Papers and Information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.

Non-Subscribers to the GAZETTE may receive the SUPPLEMENT separately, on a payment of six Rupees per annum if delivered in Calcutta, or twelve Rupees if sent by Post.

No Official Orders or Notifications, the publication of which in the GAZETTE is required by Law, or which it has been customary to publish in the GAZETTE, will be included in the SUPPLEMENT. For such Orders and Notifications the body of the GAZETTE must be looked to as heretofore.

Home Department.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the Provisions of the Act of Parliament 24 and 25 Vic., C. 67.

THE Council met at Government House on Wednesday, the 29th January 1862.

PRESENT:

His Excellency the Viceroy and Governor General of India, presiding.
His Honor the Lieutenant-Governor of Bengal.
His Highness the Maharajah of Pattiala, K. S. I.
The Hon'ble Sir H. B. E. Frere, K. C. B.
The Hon'ble Cecil Beadon.
Major-General the Hon'ble Sir R. Napier, K. C. B.
The Hon'ble W. Ritchie.
The Hon'ble H. B. Harington.
The Hon'ble H. Forbes.
The Hon'ble C. J. Erskine.
The Hon'ble W. S. Fitzwilliam.
The Hon'ble D. Cowie.
The Hon'ble Rajah Deo Narain Singh Bahadur.

The Hon'ble Rajah Dinkar Rao Rugonauth Bahadur.

The Hon'ble SIR BARTLE FRERE introduced the Bill for securing certain grants of immovable property made by the State, and moved that it be referred to a Select Committee consisting of the Hon'ble Mr. Harington, the Hon'ble Mr. Forbes, the Hon'ble Mr. Erskine, and the Hon'ble the Rajah Deo Narain Singh.

The Hon'ble the RAJAH DINKAR RAO said that the Government had power to make stipulations when it made grants, but this Bill was not

necessary for the advantage of Government, and it was not necessary for the benefit of the subject. It was contrary to the usages of the people, and would only be acceptable to such as had contracted debts. Immovable property would not be valuable to a man if he could not dispose of it either by mortgage or sale. The Bill exempted such property from process of the Civil Court, but it might be seized to liquidate a fine from a Criminal Court. If it were alienable for such a purpose, it should be also in payment of just debts. Persons applied self-acquired property in charity or works of public utility or to reward dependents, and in times of difficulty would mortgage their property, but seldom would sell it. Under this Bill, however, they would have no power at all over immovable property which had been granted to them.

The Hon'ble MR. ERSKINE said he had no objection to the principle of the Bill, and would only therefore observe, with reference to the arguments just urged, that the Rajah Dinkar Rao had not apparently given their full weight to two considerations: first, that the State, although it might, in making new grants, impose its own conditions on the grantees, could not, without the sanction of the Legislature, exempt any grant from the action of the Civil Courts; and, secondly, that the Bill as now drawn could not be injurious to the creditors of old grantees, as it was provided that in such cases the State should interpose only with the consent of all concerned.

The Hon'ble MR. COWIE supported the principle of the Bill.

The Hon'ble MR. RITCHIE said that the Bill was considerably improved since it had been first drawn. Even now some amendments appeared to be necessary. The principle, however, was sound and just, namely, that such grants as were made to reward eminent public services should stand on a different footing from other grants. The object was to perpetuate a benefit to a

family, and by perpetuating the memory of a loyal action to encourage posterity to emulate the example. But some relaxation might be required in the case of incumbents who have been sorewarded, but who were in embarrassed circumstances. The Bill at present prevented all assignments except leases for seven years. He would suggest that incumbents might also alienate for the period of their own lives, and that execution might issue for the seizure of the life interest of an incumbent. This would be analogous to the provision in English Acts granting Annuities as rewards for services. In the Debate in the Legislative Council it had been pointed out that the Bill perpetuated the entail though there should be a failure of the heirs specified in the grant. It appeared to be reasonable that, if such heirs failed and the property devolved on collateral descendants, it should be held unfettered by restrictions.

The Hon'ble SIR R. NAPIER agreed with Mr. Ritchie both as to the principle and the necessary modifications.

The Hon'ble MR. BEADON thought that there were formidable objections even to the principle of the Bill. He agreed with the Rājah Dinkar Rao that the object was not so much to perpetuate the memory of services as to reward them in the manner most acceptable to the recipients. In most cases a recipient would prefer to receive a grant unencumbered by restrictions, and it would be unseemly if the Government stepped in when the recipient was an embarrassed man, and declared his property exempt from seizure. He referred to the case in the North-Western Provinces, which had led the Lieutenant-Governor to apply for an Act of this nature. The circumstances of that case, he thought, pointed to a different conclusion. They rather shewed that a mistake had been made in the nature of the reward granted to the Ressaldar in question, or that there should be a general law to save all land, except such as was not mortgaged, from seizure under process of the Courts. But the principle of this Bill, which went to exempt lands granted for services, and to treat the exemption as part of the reward, was open to doubt. Lands granted to support titles stood upon a different footing, and should be dealt with separately, as Sir Jamsetjee Jeejeebhoy's Estate Bill had been. He also noticed that the Bill made no provision for ultimately barring the entail if the incumbent and the Government united in wishing to do so.

The Hon'ble the RAJAH DEO NARAIN SINGH said that the grants contemplated by this Bill would not be generally acceptable, because they would not be in accordance with the customs of the country, and if so, they would not be valuable as rewards. If all power of alienation were taken away, the grant would assume the character of a trust. Men had naturally a preference for liberty over every kind of restraint, and would not approve of restrictions in their property. If this Bill were passed, it should be provided that the conditions should be imposed with the assent of the grantees.

His Highness the MAHARAJAH OF PUTTIALA greatly approved of the object and principle of the Bill, because the honors conferred by the State would be firmly secured to the grantees and their families, and because the power derived from such

grants would enable grantees to render good service to the State, and because their inalienability and security would render others more anxious to obtain such rewards for good service, and so a powerful bond of affection would be created between the Government and the subjects. He approved of the power of granting leases, though he thought it might lead to disputes in times of calamity, but the Collector might be authorized to adjust them. With reference to the power of the Governor General to prescribe in the grant the course of descent, he thought that the rules introduced into the Cis-Sutlej States should be adopted for grants already made, and that in future grants the rule of primogeniture should prevail. He suggested an amendment in the 4th Section, which provided for the mode of enforcing payment of any claims not barred by the Act.

His Excellency the PRESIDENT said that it appeared to be the general opinion that the Bill should be referred to a Select Committee, and he was himself in favor of that course. At the same time he felt that some new objections had been raised to the Bill, and that others had been stated in a manner more pointed than he had previously heard. On the part of the Government he must demur to the principle of the Rājah Dinkar Rao, that the only object of the Government in such grants was the benefit of the grantee. A great object was, as Mr. Ritchie had stated, the establishment, if possible, for all time, of an example of eminent service rendered to the State, and of a conspicuous reward granted. The record in every such case should be made as enduring as possible. In England that course had been followed for at least a century and a half, as in the cases of the Marlborough and Wellington dignities and estates. Mr. Beadon had noticed the difference between grants with hereditary peerages and the ordinary rewards in this country. Exceptional as grants were at home, they could be dealt with specially. But here a general Bill authorizing the Government to impose conditions appeared to be necessary. The Rājah Deo Narian had said that such rewards would be of little value. But the Maharajah of Puttiala had justly considered that the contemplated stipulations would render the grants more honorable and acceptable. He thought that the Bill should be referred to a Committee, and further considered with their report, and that full time should be given for consideration.

The Hon'ble the LIEUTENANT-GOVERNOR said that he had no objection to the Bill being referred to a Select Committee, though he had some doubts in the principle of the Bill, and considerable doubts as to the details. He doubted if any grant should be entailed without an entail of some honor or title. If that were provided, he should not object. But this Bill would apply to all grants whether there were titles or not. The Maharajah of Puttiala had said that future grants secured by this Act should descend under the rule of primogeniture. This, he had no doubt, would be very acceptable in the case of large grants, and he saw no objection to it in principle.

The Hon'ble SIR BARTLE FREERE said that this Bill might be considered from two points of view, that of the grantor and of the grantee. The grantor (the State) parted with property for a certain purpose and had no object but to secure that purpose, which was the perpetuation of

rewards for good service. But the effect of the Bill might be to encourage improvidence. The cases of large grants intended as monuments of a nation's gratitude were distinct, and might be dealt with separately from ordinary grants for good service. Looking at the Bill from the grantee's point of view, very little could be said for it. It would be inoperative, like all attempts to protect persons from the effects of their own improvidence, and the Rajahs Dinkar Rao and Deo Narain had pointed out that conditional grants would not be acceptable. Looking back to our own history, it would be seen how inconvenient such an entailing measure would have been in the reign of Elizabeth or Cromwell, when grants of lands were numerous. His impression was that great grants should be dealt with separately, and that it was unnecessary to interfere with smaller ones. The Bill had been brought in at the instance of the Lieutenant-Governor of the North-Western Provinces. Were it his own Bill, he (Sir Bartle Frere) would withdraw it. But acting in behalf of His Honor, he would wish to refer it to him before proceeding further, and in the meantime would move for leave to withdraw his motion, leaving it open to proceed with the Bill or not as the opinion of the Lieutenant-Governor might show to be desirable.

His Excellency the PRESIDENT stated that the Rules did not provide for an amendment of this kind at the present stage.

After a brief discussion on the point of order, the motion to refer the Bill to the Select Committee was put and agreed to.

The Hon'ble Mr. BEADON introduced the Bill to make further provision relating to foreigners, and moved that it be referred to a Select Committee consisting of the Hon'ble Mr. Ritchie, the Hon'ble Rajah Deo Narain Singh, and the Mover. He stated that the Bill only revived for a period of two years an Act which had expired, and as the interval between its expiration and renewal ought to be as short as possible, he proposed that the Committee should be instructed to submit their Report at the next Meeting.

The motion was put and agreed to.

The Hon'ble Mr. RITCHIE introduced the Bill to provide for a new Silver and a new Copper coinage, and moved that it be referred to a Select Committee consisting of the Hon'ble Mr. Harington, the Hon'ble Mr. Fitzwilliam, the Rajah Deo Narain Singh, and the Mover.

The motion was put and agreed to.

The Hon'ble Mr. FORBES postponed till the next Meeting the introduction of the following Bills:—

1st.—A Bill to enlarge the jurisdiction of the Courts of Requests in the Settlement of Prince of Wales' Island, Singapore, and Malacca.

2nd.—A Bill to extend certain provisions of Acts XIV. and XXV. of 1856 to the Town and Suburbs of Rangoon, and to the Towns of Moulmein, Tavoy, and Mergui, and for appointing Municipal Commissioners, and for levying rates and taxes in the said Towns.

3rd.—A Bill relating to Emigration to the British Colonial Dependency of Seychelles.

The Hon'ble Mr. RITCHIE moved for leave to bring in a Bill to amend Chapter XII. of the Indian Penal Code, and to provide for certain offences against the coin. He stated that since

the last Meeting, when he obtained leave to bring in a Bill for the protection of the Public against bad coin, it had been found more convenient to separate the Penal Clauses, and embody them in a separate Bill as an amendment of the Penal Code. This was the Bill which he wished to introduce.

The motion was put and agreed to.

The Hon'ble Mr. RITCHIE moved for leave to introduce a Bill relating to breaches of contract committed in bad faith. He said that the object of the Bill was to provide proceedings of greater strictness in regard to the amount of damages and the nature of the execution to be awarded against defendants in Civil suits, who broke their contracts in bad faith, without reasonable excuse, after having received consideration for the same. A Bill had been brought in to the Legislative Council last year by the Hon'ble Mr. Beadon for the punishment of breaches of contract of a particular class. It was framed on the Act of 1859, relating to laborers and artificers, which Act had been based on special legislation at home relative to workmen and laborers. That Bill had been referred to a Select Committee; but soon after a Despatch was received from the Secretary of State, objecting to the Bill, mainly on the ground that it dealt with breaches of Civil contract in a Criminal way. The Chairman of that Committee (Sir Barnes Peacock) had prepared a Report, in which he had stated that it was not desirable that the Bill should be passed in a shape to which the Secretary of State, to whom the power of disallowance had been granted by Parliament, objected; but that there was no reason why the Council should not give some relief, and he proposed that, in all such cases as were included in the Bill, when a Civil Court awarded damages, it might commit the defendant to the Civil Jail where he should maintain himself, or, if he were maintained by the Government, be kept to hard labor. Since that period the Government of India had come to the conclusion that the principle of that recommendation should be adopted, but extended to all contracts in which a defendant had committed a breach after having received consideration. This would be less objectionable than a Bill confined to agricultural contracts, and a law dividing broadly between honest and dishonest debtors would be more consonant with just and sound legislation than a law confined to a special class of persons. The Bill would provide that, when a defendant had received consideration for a contract and broken it, the Court, if it found that the contract had been broken in bad faith and without reasonable excuse, and if the damages were not paid, might commit the defendant for the period specified under the Civil Code to Jail, where he should maintain himself or be kept to hard labor, and should not be entitled to discharge either under the discharge Clauses of the Civil Code or an order of the Insolvent Court. The Bill was limited to cases of dishonest and wilful breaches of contract, and was not open to the objections which had been urged to the former Bill, inasmuch as it was not confined to any particular class of persons or of contracts; it did not submit contracts in which equities might have to be considered by tribunals unaccustomed to deal with Civil suits; and its machinery could not be perverted to the purposes of oppression. It would include all the cases embraced in Mr. Beadon's Bill and many others as important.

His Honor the **LIEUTENANT-GOVERNOR** stated that the Bill, as explained by Mr. Ritchie, appeared to be quite unobjectionable, and he should not have made any remark on it if he had not been strongly opposed to the Bill introduced last year. The two measures were so fundamentally different, that, while retaining his objection to the former Bill, he had no objection to the introduction of this.

The Hon'ble Mr. **BEADON** said he had no hesitation in admitting that the present was a great improvement in the former Bill. It was more comprehensive and not open to the objections to which the former was liable. It would be applicable to those contracts only in which a consideration had been given and received. He considered that the advance was the element that brought the case within the Criminal Law. But the Chief Justice had considered that that point was immaterial, and that the law should apply to all breaches of contract in bad faith. He (Mr. Beadon) considered that the receipt of an advance gave the aspect of a Criminal breach of trust to a breach of contract, and that in many such cases Section 405 of the Penal Code and the punishment in Section 403 would apply. By those Clauses and Mr. Ritchie's Bill he considered that every legitimate object was secured.

The Hon'ble Mr. **HARINGTON** said that, in assenting to the present motion, he did not consider that he was assenting to the principle of the Bill, which he considered to be that in certain cases defendants in Civil suits should be kept in Jail at the expense of the State, and not at the expense of the plaintiffs. He quoted the 16th Rule, and stated that he apprehended that the discussion on the principle would be taken at another stage.

The Hon'ble Mr. **RITCHIE** in explanation said that it was not proposed to extend the Bill to contracts in which no consideration in money, goods, or the like had been given, and where the plaintiff's part rested in promise only. On the other hand the consideration need not be confined to money, but the Act would apply in the case of goods supplied by tradesmen, land let by landlords, as well as contracts made on advances by Planters or Capitalists. The breaches of trust referred to in the Penal Code were those in which a man having received money or property under any contract or obligation to apply it specifically to a particular purpose, misapplied it. The breaches of contract which the Bill dealt with, were those in which a man received money or property, not necessarily for the purpose of applying the particular money or property to a specific purpose, but as a consideration for a promise on his part to perform some act as an equivalent.

His Excellency the **PRESIDENT** agreed with the Hon'ble Mr. Harington in his interpretation of the Rules. The question put was whether there was a *prima facie* case for a Bill. As to the principle of the Bill proposed, that would be affirmed or rejected when the Bill was introduced. Any Member who objected to the principle of the Bill could object to its going into Committee.

After a short discussion on the point of order, the motion was put and agreed to.

The Hon'ble Mr. **RITCHIE** moved for leave to bring in a Bill to provide for the administration of Civil and Criminal Justice at Aden. He stated that the object of the Bill was to place the administration of Justice at Aden on a stable footing. The Penal Code supplied the Criminal Law, but it was necessary to declare the nature of the

Civil Law that should be in force, to remove doubt as to the jurisdiction of the Resident sitting as a Court, and to provide for an appeal to the Sudder Court at Bombay.

The motion was put and agreed to.

The Hon'ble Mr. **RITCHIE** moved for leave to bring in a Bill to remove the District of Humeerpore in the North-Western Provinces from the operation of the General Regulations. He stated that this Bill was introduced at the instance of the Hon'ble the Lieutenant-Governor. Humeerpore was one of four Districts in the Division of Jhansi. Three of them were Non-Regulation Districts, and it was necessary to place Humeerpore on the same footing.

The motion was put and agreed to.

The Hon'ble Mr. **RITCHIE** moved for leave to bring in a Bill for the amendment of Act XXV. of 1838 (relating to Wills of persons whose personal property cannot by the law of England pass to their representatives without Probate or letters of Administrations). He stated that the Wills Act passed in the 1st year of Her Majesty applied here, and that all the formalities therein prescribed must be followed by British Subjects. But a subsequent Amending Act of Lord St. Leonards had relaxed some of the strict technicalities, and it was intended to extend those amendments to this country. It would be open for consideration whether those relaxations might not be extended so far that it should no longer be necessary for the two witnesses to a Will to sign in the presence of each other.

The motion was put and agreed to.

The Hon'ble Mr. **RITCHIE** moved for leave to bring in a Bill to amend and consolidate the law relating to the conveyance and transfer of property in India vested in Trustees or Mortgagees, in cases governed by English Law. He stated that its object was to extend to India the recent amendments in the Law relating to Trustees and Mortgagees which had been enacted in England, especially the Trustee Act of two years ago.

The motion was put and agreed to.

The Hon'ble Mr. **RITCHIE** moved for leave to bring in a Bill to give Trustees, Mortgagees, and others in cases governed by English Law certain powers now commonly invested in Settlements, Wills, and Mortgages. He stated that the object was to extend to this country the provisions of the Act 23 and 24 Vic., c. 145, which greatly simplified the Law as to the powers of Trustees and Mortgagees.

The motion was put and agreed to.

The Hon'ble Mr. **RITCHIE** moved for leave to bring in a Bill to further amend the Law of Property, and to relieve Trustees in cases governed by the English Law. He stated that the object was to extend to India the provisions of the Act 22 and 23 Vic., c. 35, so far as they were applicable.

The motion was put and agreed to.

The Hon'ble Mr. **HARINGTON** moved for leave to bring in a Bill to consolidate and amend the law relating to the partition of estates paying Revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal. He stated that the object was to amend the law relative to the partition of estates paying Revenue to Government. The present law was defective in respect of a numerous class of Estates in the North-Western Provinces of Bengal, the property of two or more persons, the lands comprised in which were held partly in severalty and

partly in common. The wording of the present law precluded the application of its provisions to that description of estates, and even the lands in such estates as were held in common tenancy were not divisible under it. A more serious objection to the present law was to be found in the extremely dilatory character of the procedure which it prescribed. The present Bill had been approved by the Sudder Board of the North-Western Provinces, and legislation on the subject had been undertaken at the instance of the Lieutenant-Governor of those Provinces. As Bengal was to have a separate Council, he had confined provisions of the Bill to the North-Western Provinces.

The motion was put and agreed to.

The Council adjourned till Wednesday, the 5th of February at 11 A. M.

M. WYLIE,

*Deputy Secy. to Govt. of India,
Home Dept.*

CALCUTTA,
The 29th January 1862 }

Foreign Office.

The Fair held at the Burman Ghaut on the Nerbudda.

From MAJOR R. T. SNOW, Officiating Secretary to the Chief Commissioner, Central Provinces, to COLONEL H. M. DURAND, C. B., Officiating Secretary to the Government of India, Foreign Department, Fort William,—(dated Nagpore, the 13th January 1862.)

SIR,—I HAVE the honor, under instructions from the Chief Commissioner of the Central Provinces, to forward, for submission to His Excellency the Governor General in Council, a copy of a Report by the Deputy Commissioner of Nursingpore, on the Mela or Fair held at the Burman Ghaut on the Nerbudda River near Nursingpore annually at the full moon of Kartick.

2. There are several of these gatherings at the same season of the year held at the different spots on the Nerbudda, the principal ones being those at Burman Ghaut in Nursingpore, at Behra Ghaut in Jubbulpore, and near the Station Hoshungabad which is on the river; but that held at Burman Ghaut, from which it takes its name, is by far the largest and the one most frequented. In 1857 and 1858 there was no attendance owing to the disturbed state of the country, and in the present year, though the gathering is said to have reached about 80,000, the numbers attending it are far below what they have reached in former years, when they were known to approach from 120 to 1,30,000.

3. In so large an assemblage it might be expected that crime would be rife, and the trifling amount reported by Captain Gordon to have been committed on this occasion speaks remarkably well for his management, and entitles him to the praise bestowed on him by the Commissioner of his Division, Mr. A. H. Cocks, C. B.

4. As these periodical Fairs betoken to a certain extent the state of prosperity and increasing traffic of the neighbouring Districts, the Chief Commissioner has thought the submission of these papers now forwarded may prove interesting to His Excellency in Council.

Copy of a Report No. 471, dated 12th December 1861, from the Deputy Commissioner, Nursingpore, to the Commissioner, Jubbulpore Division.

I HAVE the honor to submit, for your information, the following Report regarding the annual Fair lately held at Burman.

2. The available Military Police of this District, with the addition of 100 men and twenty Sowars from the Jubbulpore Military Police Battalion, all under the Command of Lieutenant Sutherland, and a Company (sixty Privates) of the Detachment of the 1st Regiment, Madras Native Infantry, under the Command of Lieutenant Newdick, were employed, during the whole period of the Fair, for the protection of the people and the large amount of valuable property collected there. The Cavalry branch of the Military Police also furnished several outlying guards on the various roads leading towards the Fair.

3. From the 12th of November (the date of my arrival) the Merchants and Shop-keepers commenced to arrive, and they continued to do so in large numbers until the 17th, when the Fair was at its height. The 17th was chiefly devoted to their religious ceremonies, but from the 18th the whole of the shops were opened, and business was carried on uninterruptedly up to the 6th December, when the Fair was broken up after lasting for about three weeks.

4. On the 17th and 18th of November there must have been from 70 to 80,000 people assembled. The numbers then diminished owing to the departure of those who came solely for religious purposes, but the traffic continued steadily and briskly up to the end.

5. The great bulk of the shops, including all the wealthy and important ones, were erected in the sandy beds of the Nerbudda on the left or southern bank. There were a pretty good number of petty shops on the right bank also. The Fair on the left bank occupied a continuous space of nearly two miles, and there must have been at least 2,000 shops of all kinds, besides an immense number of stalls held in the open air, at which cloths and fabrics of local manufacture, vegetables, cheap ornaments, &c., were sold. The number of shops must have been, in my opinion, about double those of last year.

6. The shops, besides those of the District, came chiefly from Saugor, Jubbulpore, Hoshungabad, Bhopal, and a few even from Mirzapore. The most numerous were those of the cloth merchants or "Buggay," of which there were upwards of 400; next, dealers in brass, copper, iron, and other metal utensils; third, sellers of spices, drugs, &c., commonly called "Kirana"; after them general dealers, bissattees, sweetmeat-sellers, &c., &c.

7. The sales of all descriptions of wares were very extensive, especially those of cloth, of which about two-thirds were English fabrics, and one-third country fabrics procured from Berhampore, Cawnpore, Furruckabad, Delhi, Benares, and other large Marts. A great deal of business was also done in Hoondies, or Bills of Exchange.

8. The conduct of the people was most peaceable and orderly throughout. There were only five cases of petty thefts or "ootharee geeree" during the whole time of the Fair, and in all these cases the property was recovered, and in four of them the offenders punished. There was one rather heavy case of theft of property, value Rupees 201-14-0, but this took place outside the limits of the Fair when the owner was on his way home.

9. There were no complaints against the Police, Civil or Military, nor against the Detachment of Madras Native Infantry, and I have every reason

to express myself grateful to Lieutenant Newdick, Commanding the latter, and Lieutenant Sutherland, Commanding the former, for their excellent management and the discipline kept up in their Detachments, whose behaviour was most exemplary throughout.

10. The Merchants, Shop-keepers, &c., all expressed themselves most highly pleased with the success of the Fair. The general sense of security exhibited by them was most satisfactory, and there is every prospect that next year's Fair will be a still larger and more important one.



SUPPLEMENT TO The Calcutta Gazette.

SATURDAY, FEBRUARY 8, 1862.

OFFICIAL PAPERS.

A SUPPLEMENT to the GAZETTE will henceforward be published, weekly or twice a week, according to circumstances, containing such Official Papers and Information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.

Non-Subscribers to the GAZETTE may receive the SUPPLEMENT separately, on a payment of six Rupees per annum if delivered in Calcutta, or twelve Rupees if sent by Post.

No Official Orders or Notifications, the publication of which in the GAZETTE is required by Law, or which it has been customary to publish in the GAZETTE, will be included in the SUPPLEMENT. For such Orders and Notifications the body of the GAZETTE must be looked to as heretofore.

Home Department.

Abstract of the Proceedings of the Council of the Governor General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., c. 67.

The Council met at Government House on Wednesday, the 5th February 1862.

PRESENT :

His Excellency the Viceroy and Governor General of India, presiding.
His Honor the Lieutenant-Governor of Bengal.
His Highness the Maharajah of Puttiala, K. S. I.
The Hon'ble Sir H. B. E. Frere, K. C. B.
The Hon'ble Cecil Beadon.
Major-General the Hon'ble Sir R. Napier, K. C. B.
The Hon'ble W. Ritchie.
The Hon'ble H. B. Harington.
The Hon'ble H. Forbes.
The Hon'ble C. J. Erskine.
The Hon'ble W. S. Fitzwilliam.
The Hon'ble D. Cowie.
The Hon'ble Rajah Deo Narain Singh Bahadoor.
The Hon'ble Rajah Dinkar Rao Rugonauth Bahadoor.

The Hon'ble MR. BEADON presented the Report of the Select Committee on the Bill to revive and continue in force for a further period Act XXXIII. of 1857 (to make further provision relating to Foreigners), and gave notice that he would, at the next Meeting, move that the Bill be taken into consideration and passed.

The Hon'ble MR. RITCHIE introduced the Bill for the amendment of Act XLVI. of 1860 (to authorize and regulate the emigration of Native Laborers to the French Colonies), and moved that

it be referred to a Select Committee. He said that the object of this Bill was simply to adapt the law already passed, to an alteration made in the Convention with the Emperor of the French. He would propose that the Select Committee should be instructed to report within one month. The alteration in the Convention was not material, and this period would be sufficient for the publication and consideration of the Bill in Madras and Bombay.

The motion was put and agreed to.

The Hon'ble MR. HARINGTON introduced the Bill to consolidate and amend the Law relating to Stamp Duties, and moved that it be referred to a Select Committee with instructions to report within a fortnight. He stated that the Bill had been introduced into the Legislative Council and already published.

The Hon'ble MR. RITCHIE said that a fortnight would be rather scanty time. The Bill in its present shape contained some new provisions which had not yet been published, and ample time should be afforded for their consideration.

The Hon'ble MR. HARINGTON said that the Bill containing the most important of the alterations proposed in the existing law had already been published, and that where any change had been made subsequently to the publication of the Bill, it would be found to be almost always of a mitigating character and in favor of the public. But he never contemplated that the Bill should pass into Law until ample opportunity had been given to the communities of Madras and Bombay, as well as Bengal, to know what was proposed, and to offer any opinions or suggestions upon the various provisions of the Bill. For this purpose it was his intention to propose that the Bill should be re-published for a certain time as soon as it had gone through the Select Committee and a Committee of the whole Council, but before it passed

into law and came into operation. He thought that the interval would be ample for the public to make themselves acquainted with the Bill and to offer any observations upon it.

His Excellency the PRESIDENT said that there could be no doubt as to the desirableness of full publicity being given to this Bill. The Rules of Business provided for a pause in the proceedings after the Report of a Select Committee was received, but they did not contemplate a Bill passing through a Committee of the whole Council. Under the 17th Rule the Council could suspend the publication of a Bill till after report by a Select Committee, and after the presentation of the Report might pause before it was taken into consideration.

The Hon'ble MR. HARRINGTON suggested that the Bill might be republished after it was considered by the Select Committee. He consented to the motion being altered by the substitution of the period of one month for a fortnight.

The motion was put and agreed to, and His Excellency the President declared Rule XVII to be suspended.

The Hon'ble MR. ERSKINE introduced the Bill to amend the Law relating to the use of a Government Seal, and moved that it be referred to a Select Committee with instructions to report in a fortnight. He stated that the Bill had already been published and postponed for a considerable time.

The Hon'ble MR. RITCHIE stated that the Bill was purely of a formal character, and he thought that the time proposed by Mr. Erskine would suffice in this case.

The motion was put and agreed to.

The Hon'ble MR. BEADON moved for leave to bring in a Bill to authorize the punishment of whipping in certain cases. He stated that the Bill was in most essentials a re-production of the Bill passed last year by the Legislative Council. The principle almost unanimously adopted by that Council was, that the punishment of flogging was in some cases absolutely necessary, but there had been some difference of opinion as to the particular crimes for which the punishment might be inflicted and as to mode of its infliction. In framing the present Bill he had desired to depart, as little as possible, from the conclusions at which that Council had arrived. As to crimes, he had adhered precisely to the catalogue in the Bill passed by the Council, except in having added Dacoity. When his Bill was submitted to a Select Committee, probably some other offences might be added, and the punishment might be deemed inapplicable to some which he had included. As a general rule, he thought the punishment should be confined to cases of a degrading nature and to habitual offenders. He had used the term *whipping* as being more in accordance with recent Acts of Parliament and with the actual mode in which the punishment would be inflicted. In no case would it be obligatory on a Court to order the punishment, but the Bill would be permissive only. He proposed to substitute a cat o'-nine-tails for the rattan as the instrument of punishment, as there would be less danger of permanent injury; and the punishment being lighter, the maximum strokes would be increased to fifty. In

the case of juvenile offenders under the age of sixteen, he would adopt the mode of punishment in force in Bengal. A Clause had been added to provide for the case of a Medical Officer forbidding the infliction of the punishment. The offender in that case might be kept in prison by the Court for a period in addition to any period named with the whipping, but the entire period of imprisonment should not exceed that prescribed by the Penal Code for the offence. The Bill would not affect any existing provisions for Jail discipline.

The Hon'ble MR. COWIE said that he was opposed to all Corporal punishment except in the case of juvenile offenders.

His Excellency the PRESIDENT stated that he wished to advert to the reasons why the Bill passed by the Legislative Council had not received his assent. As that Council had not met again for the transaction of business, he had not had an opportunity of communicating his sentiments. He had no doubt on the point of principle, but there were serious defects in the details of the measure. The definition as to age was very vague and not sufficient as a guide to the Courts. There appeared to be too much detail, and that not of a very judicious character, as to the mode of inflicting the punishment. Security was wanting for a safe and judicious Medical supervision, and there was an absence of a provision, so desirable in all such cases, for the exercise, at any rate to some extent, of the discretion of the Local Government. The present Bill, he believed, would be found to be a considerable improvement on the former.

The motion was put and agreed to.

The Hon'ble MR. BEADON moved for leave to bring in a Bill to enable the Government to divest itself of the management of Religious Endowments. He stated that this Bill was the last of a series of measures taken by the Government during several years for divesting itself of the management of religious trusts. The subject had led to much correspondence in this country and with the Home Government, but it was only necessary for him to advert to a Despatch of the Secretary of State in 1860, directing the repeal of Regulation XIX., 1810, of the Bengal Code, and Regulation VII., 1817, of the Madras Code, and the transfer of the institutions now superintended by the Local Agents to trustees, subject to the jurisdiction of the Courts. In accordance with the terms, though not with the spirit, of that Despatch, a Bill had been introduced, the whole scope of which was to repeal those Regulations, and to provide that the Civil Courts should have jurisdiction in all cases arising out of these trusts. That Bill had been strongly opposed in Madras and the North-Western Provinces. There had been two classes of objectors. *First*, there were those who thought that the Government should simply repeal the Regulations, and leave all the institutions now superintended by Government to take care of themselves. But such persons seemed to be forgetful of the obligations already contracted, and that the course they recommended would be scarcely consistent with good faith. *Secondly*, there were those who thought that special provision ought to be made for the superintendence of these trusts, as for instance, by the establishment of some Board, which should be

authorized to deal with all cases connected with them without reference to the Civil Courts. The present Bill was drawn more in accordance with the Despatch by giving jurisdiction to the Civil Courts in cases of misfeasance.

There were two classes of institutions to be dealt with,—some, in which the managers were elected by the persons interested without any confirmation from Government; and others, in which the Government had to nominate the managers. As to the first class, the object in view was attained by a repeal of the Regulations and by providing that the managers should be responsible to the Courts. As to the other class he proposed that the Government should once for all nominate a Committee from among the persons interested in each trust, vesting in that Committee all the powers now exercised by the Sudder Board or the Local Agents, but rendering such Committee subject to the Civil Courts. The Committee would henceforward be self-elected, that is, on the occasion of any vacancy the remaining members might elect; but in the event of their failure to do so, any person interested in the trust might apply to the Civil Court to nominate a successor. He thought that there was a wide difference between the Government by its Officers sanctioning every appointment, and the Civil Courts interfering, on the special application of persons interested, to nominate a trustee on those rare occasions in which such interference would be necessary.

The motion was put and agreed to.

The Hon'ble MR. BEADON postponed till next week his motion for leave to bring in a Bill to provide for the service of legal process issued against His Majesty the King of Oude, and for taking the examination of His said Majesty when required as a witness.

The Hon'ble MR. RITCHIE moved for leave to bring in a Bill further to provide for the marriages in India of persons professing the Christian Religion. He said that the object of the present Bill was to put an end to the uncertainty respecting the validity of certain marriages in which one or both of the parties were Christians. At present there were three modes by which marriage might be contracted, one of which was peculiar to one particular body of Christians. The first was that in which a person in Holy Orders was present. No particular rite or form was necessary, but by a person in Holy Orders was meant in legal sense a person Episcopally ordained, no other person ranking higher than a layman. This was the mode required by the Common Law, but it was doubtful if the necessity for it extended to this country. The second was that under the Statute which sanctioned marriages by Clergymen of the Established Church of Scotland, being Chaplains. That Statute had in 1860 been extended to Clergymen of that Church though not Chaplains. This was the mode applicable to one body of Christians only. A third mode was authorized by the Indian Marriage Act of 1852, under the authority of which an Act had been passed in this country. Previously to that Act great doubts had existed as to whether the Common Law with respect to marriage prevailed out of England. But the great case of the *Queen versus Millis* had decided that it extended at any rate to Ireland. The Indian Marriage Act did not clear up the doubt whether

it extended to this country, for it simply declared all marriages to be valid which had been previously solemnized in which the only defect was the absence of a person in Holy Orders, and provided for marriages before Registrars; but it did not determine the question as to the validity of future marriages not solemnized under that Act or without the presence of a person in Holy Orders. Sir Erskine Perry and Dr. Lushington were of opinion that the decision in the *Queen versus Millis* could not apply to countries in which, at the time of the introduction of English Settlers, there were no persons in Holy Orders who were available for the purpose of attending marriages. But the Court of Exchequer had decided that the case did affect marriages in Beyrout. There was, therefore, considerable uncertainty; and numerous frauds had been committed in this country by persons solemnizing marriages under an assumed authority. One reason why that uncertainty continued, probably was that the Legislative Council could not amend the Indian Marriage Act, as that was an Act passed after the 3 and 4 William IV. But he now proposed to provide that no marriage between Christians should be valid unless solemnized in the presence of a person in Holy Orders, under the Scotch Marriage Act, or under the Indian Marriage Act, before a Registrar. At the same time he would declare valid all past marriages, the only defect of which was non-compliance with those conditions.

The motion was put and agreed to.

The Hon'ble MR. RITCHIE postponed his motion for leave to bring in a Bill to provide for the dissolution, in certain cases, of marriages entered into by Converts before their conversion.

The Hon'ble MR. RITCHIE moved for leave to bring in a Bill for the prevention of fraudulent transfers of property and of Secret Trusts. He stated that this Bill was of the same nature as that introduced into the Legislative Council by Sir Arthur Buller. The object was to obviate, as far as possible, the mischiefs arising from secret and fraudulent Trusts. But the provisions of this Bill would differ from those of the former Bill in respect of the omission of the Penal Clauses, which were now provided by the Penal Code, and would only deal with the Civil rights of the parties. The Bill would provide that, when any interest in real property was transferred without a declaration of trust, it should be held without any trust, and that the transferee should hold against all, except creditors and the persons whom the transfer might be intended to defraud. The Courts then would be relieved from the necessity of giving to any instrument an effect different from that which it appeared to be meant to have. Instruments in certain cases would be required to be accompanied by a memorandum. Requiring witnesses was of little value, as any number of witnesses might often be obtained.

The motion was put and agreed to.

The Hon'ble MR. RITCHIE moved for leave to bring in a Bill to provide for the construction, by Companies and by private persons, of Branch Railways, Iron Tram Roads, Common Roads, or Canals, as feeders to Public Railways, Canals, or Roads, or to Navigable Rivers. He stated that a Bill similar to this had been introduced into the Legislative Council

by Mr. Seton-Karr, but that Bill was confined to feeders to Railways. The present Bill would be extended to Roads, Canals, and Navigable Rivers. He had some doubt with respect to Roads, but would introduce the provision into the Bill, subject to consideration. The only difficulty that arose was from His Honor the Lieutenant-Governor of Bengal having given notice of Mr. Seton-Karr's Bill being proceeded with in the Bengal Council. In some respects it might be advantageous that there should be local legislation on the subject. But on the other hand, as a Railroad, for which feeders were to be provided, might pass through several Districts in different Presidencies, two different Acts might be objectionable. He had ascertained from His Honor the Lieutenant-Governor that, in his judgment, general legislation would be preferable. But at present he would confine himself to obtaining leave to introduce the Bill, and would ascertain what course it would be expedient to follow.

The motion was put and agreed to.

The following Select Committees were named :—

On the Bill for the amendment of Act XLVI. of 1860 (to authorise and regulate the emigration of Native Laborers to the French Colonies)—the Hon'ble Messrs. Ritchie, Forbes, and Cowie.

On the Bill to consolidate and amend the Law relating to Stamp Duties—the Hon'ble Messrs. Laing, Ritchie, Harington, Forbes, Erskine, Fitzwilliam, and Cowie, and the Hon'ble Rajah Dinkar Rao Rugonanth Bahadoor.

On the Bill to amend the Law relating to the use of a Government Seal—the Hon'ble Messrs. Ritchie, Harington, and Erskine.

The Council adjourned till Wednesday, the 12th instant, at 11 A. M.

M. WYLIE,

Deputy Secy. to the Govt. of India,

Home Department.

CALCUTTA ;
The 5th February 1862 }

Government of Bengal.

Report on the results of the arrangements for the forthcoming Exhibition of 1862, by A. M.

Dowleas, Esq., Secretary to the Central Committee for Bengal.—(dated 6th January 1862.)

I HAVE the honor to report that the shipments of that portion of our contributions to the forthcoming International Exhibition of 1862, which had to be forwarded *via* the Cape, have been brought to a close. They consist of

66 packages by the Ship	<i>Nile,</i>
44 ditto " "	<i>Hotspur,</i>
21 ditto " "	<i>Renown,</i>

131 packages in all, comprising three thousand nine hundred and thirty-six specimens of the products and manufactures of Bengal, the North-Western Provinces, Oude, the Punjab, Burmah, the States of Ulwar, and the Tenasserim and Martaban Provinces, and valued for export duty at Rupees 37,668.

2. The collection forwarded from the same Provinces, including the Straits' Settlements, to the London Exhibition of 1851, both *via* the Cape and the Overland Route, consisted of 2,699 specimens, so that, on the present occasion, the contributions shipped round the Cape *alone* exceed the total collection of 1851 by one thousand two hundred and thirty-seven specimens; whilst the valuable textile fabrics, silks, and brocades, as well as works of art, which remain to be forwarded by the Overland Route, comprise nearly 2,000 articles, which will bring up the total number of the collection to nearly six thousand specimens, being more than double of what has been sent in 1851.

3. But whilst the collection is thus so greatly in excess of that of 1851, it has been put up and packed in such a manner that it will actually occupy less space than on the former occasion, and moreover display a degree of uniformity which has not been attained in either 1851 or 1855.

4. The collection comprises specimens of every production upon which human industry is engaged in the Provinces whence obtained, and it contains a number of articles, either entirely new, or of which no specimens have as yet been exhibited in Europe. The most important part, however, is the convincing proof which it affords of the extraordinary advance that has taken place in some particular arts and manufactures, an advance especially remarkable in localities situated within convenient distances of those lines of Railways which are already in practical working, thereby shewing the great aptitude of Natives for almost any kind of work where European superintendence or even advice bring to bear their influence upon local industry.

5. In accordance with the Rules laid down by Her Majesty's Commissioners for the Exhibition, the collection consists of four general Sections, *viz.* :—

I.—Raw Products,	III.—Manufactures, and
II.—Machinery,	IV.—Works of Art,

and these Rules have been strictly adhered to. It was not, however, practicable to follow with the same fidelity the division of Section III. into the classes prescribed by Her Majesty's Commissioners, since many of the most valuable fabrics of India are of a description which would render it somewhat difficult to assign to them the proper class in which they ought to be exhibited. Thus, for instance, Class 27, "Articles of Clothing," would comprise an immense variety of fabrics which constitute "clothing" in India, but which in Europe come within the meaning of manufactures in "cotton," "in silk," "embroideries," &c. To overcome the difficulty, I have adopted the plan of classifying all such manufactures according to the peculiar workmanship for which they are valued. Thus, for instance, though Cashmere Shawls most undoubtedly would come within Class 21, "Manufactures in Wool," their great merit consists in their embroidery, and hence they have been classed among embroideries. The splendid doputtahs or shawls from Benares are articles of clothing worn by wealthy natives, but their beauty consists in the fineness of the texture of the silk and the interweaving of the gold and silver threads, and I have accordingly classified them among manufactures in silk.

6. But however desirable it may be to adhere throughout strictly to the classification laid down by Her Majesty's Commissioners, as far as the general arrangements are concerned, it must not be

forgotten that the principal object which India can have in view in displaying the products and manufactures of this country at the forthcoming Exhibition is to reap practical advantages, and this object would be in a great manner frustrated if no deviation from that classification were allowed. Among the valuable natural productions of the soil of India fibres occupy a very important place, and in order to illustrate their particular adaptation for a variety of purposes and specially for cordage, specimens of the latter accompany each description of fibre. According to the prescribed classification, however, cordage comes within "Manufactures of Cotton or Hemp," and would thus be exhibited separately, whereas it is highly desirable that it should be shewn in connection with the raw material from which manufactured. I have therefore arranged this portion of our collection by sub-dividing it into two classes, *viz.*, one shewing the fibre, and the other the article manufactured therefrom. If this arrangement be objected to at home, it can easily be rectified by transferring the latter to the head of "Manufactures."

7. The classification and proper labelling of the collections has, however, entailed more trouble and labor than I anticipated. In some instances packages reached me without lists or invoices, so that a regular inventory had to be made of the contents of each package. In other cases the name attached to labels on the article itself did not correspond with that in the list, and in one particular instance a large collection reached me without labels, without lists, and even without previous advice, so that had I not been acquainted with those identical articles I should have been at a loss to find out where they came from. This, however, in many cases was unavoidable, if it be considered that perhaps one and the same package had to travel partly by banghy, then by steamer or rail, or by bullock train, so that, though advised of the manner in which it might have been dispatched at first, there was no knowing by what mode of conveyance it may be expected ultimately to reach me.

8. With a view to exercising the utmost economy, a number of articles of much interest had to be packed up at once and shipped *via* the Cape. I should have wished much to exhibit them on public view, in order that those interested in the progress of India might have convinced themselves of the surprising improvement which has taken place in several branches of local industry. This, however, would have thrown me back completely in my labors; and moreover it was an object to make room for the really valuable fabrics and works of art which have to be forwarded by the overland route, and which I hope to exhibit for public inspection in the course of this month.

9. I now proceed to offer the following remarks about our contributions to the Exhibition. First and foremost in importance I consider the collection of the products of the soil, and among these I may particularly mention that of oilseeds, oils, gums, resins, medicinal substances, fibres, and timbers, all of which, with the exception of the two latter, are uniformly put up in glass-stoppered bottles. Whilst containing a number of specimens entirely new or never before exhibited, it comprises a large variety of products identical and indigenous to different localities, soil, and climate. Each of these exceeds the number of specimens sent

either to the London or Paris Exhibition, and moreover comprises a complete assortment of drugs used by native practitioners, arranged according to their properties, with the description of the proportions and manner in which given to patients. One practical result of this large collection must lead to a conviction that more than one-half of the drugs now indented for from England can be procured from local sources at an infinitely cheaper cost.

10. With regard to the most important staple product, *viz.*, raw cotton, I regret to say that neither the variety of specimens received, nor the information bearing on that subject, will realise the expectations of those interested in that particular fibre. This defect, however, it is hoped, will, in some measure, be remedied by the circular issued upon the strength of a communication lately received by the Government of India, clearly explaining what is required, and not only authorizing the transmission of all specimens of cotton by the overland route, but moreover conveying the consent of Her Majesty's Commissioners for the Exhibition to receiving all such samples up to within one week of the time fixed for the opening of the Exhibition itself.

11. Among the other articles contributed to the forthcoming Exhibition of 1862, there are several which ought not to be passed over without remark, especially as they not only shew the great improvement which has most undoubtedly taken place in a variety of manufactures, and even of works of art, but furthermore most conclusively prove the desire on the part of natives to take advantage of every opportunity afforded to them for improving their productions and manufactures so as to render them more adapted to European taste and requirements.

12. I would foremost draw attention to the Paintings on paintings on ivory from Delhi, Ivory. which shew the most wonderful improvement which has taken place in that branch of native talent. Though in point of exquisite fineness of pencilling the Delhi paintings have, for a long time past, stood in high repute, yet the chief skill of the artists consisted in the faithfulness of their portraits; but as regards landscape painting there was an entire absence of perspective or even shading, and indeed few painters attempted anything beyond pictures of particular public buildings, but which generally resulted in failure. The specimens forwarded on the present occasion will, therefore, take every body by surprise, and among the collection there are two, one a landscape, the other the interior of a temple, which may challenge competition. I am doubtful whether any thing better could be produced in Europe within the same small compass; but I am positive that in no part of the world could it be obtained for the same money.

13. Surprised at this extraordinary improvement, I endeavored to trace its immediate cause, and from the information collected, there is not the least doubt that it must solely be ascribed to the spread of photography, a conclusion in which I am strengthened by the fact that one of the Delhi paintings on ivory, comprised in the present collection, is the very counterpart of a photograph taken at Delhi about a year ago and presented to me by a friend. Several others of these paintings

are the most faithful copies of photographs taken by Mr. Beato at Lucknow.

14. The Calcutta chickun-work, or needle embroidery, is deserving of special notice. It surpasses any thing hitherto produced, and has, by competent judges, been pronounced to be unique. The assortment comprises both specimens of extraordinary cheapness as well as of the highest finish of workmanship; thus, for instance, we have handkerchiefs with eight annas up to sixteen Rupees each.

15. The floss silk embroideries on merino and net from Delhi are particularly fine, and care appears to have been taken to adapt the same to English taste. Though greatly superior to what has been sent on former occasions, it has the further advantage of greatly improved patterns with extraordinary cheapness of cost.

16. Among the carpets already shipped, I may mention those made at the central jails of Lahore and Meerut, and at the Jubbulpore School of Industry. They shew a great advance in workmanship, whilst the blending of colors is remarkably fine. The great drawback, however, is the heavy expense of inland transit to the nearest place of export. Thus, for instance, the expense of packing and forwarding to Calcutta two carpets from Jubbulpore, which, on the place of manufacture, cost only Rupees 100 each, is Rupees 104, being more than 50 per cent. on the original price. This, however, will remedy itself as soon as Railways come more extensively into operation.

17. Of shawls there is a very large collection, the greatest portion of which consists of private contributions, and comprises varieties to suit every body's taste. There are some which have been sent from Sirinuggur, the capital of Cashmere, and from Umritsur, and said to be much superior to any thing yet forwarded to Europe. By desire of the contributors these shawls are not to be opened out here, but the packages in which they are contained are to be shipped direct to London by the overland route, and moreover to be insured against damage by sea-water. From information received, it would appear that really fine shawls are only made to special order, and if a proper price be paid for them, and that the deterioration lately observed in the productions of the looms of Cashmere is chiefly to be attributed to the circumstance that shawls of middling quality meet with a readier sale at home, especially as the French have brought their own manufactures to such a high state of perfection; that, considering the relative cost of real Cashmeres and French imitations, the latter have caused much competition to the disadvantage of the shawls of Cashmere.

18. The "kuftgori" work, or steel inlaid with gold, from Goojerat in the Punjab, is exquisite, and in point of cheapness defies competition. There is a decidedly higher finish in the specimens forwarded on the present occasion, and there is no doubt that they will attract peculiar attention among those interested in this kind of manufacture.

19. A variety of articles have been collected and forwarded to me under the name of Papier Maché, but the only ones deserving of notice are those made at Cashmere. Though not to be compared with

the exquisite articles produced in Germany and France, yet the specimens sent on this occasion will shew a wonderful improvement in comparison with those contributed in 1851 and 1855. They are much lighter, better finished, and will prove an ornament even to an English drawing-room table. The only drawback is their cost, being much dearer than what could be obtained for the same money at home.

20. There is a large assortment of silk cloths from various parts of India, but whilst in some parts a marked improvement is noticeable in the manufacture, in others it has decidedly deteriorated. Even with regard to the former, a further and considerable improvement is required to obtain for these fabrics a footing in Europe, especially as the specimens collected by no means commend themselves by cheapness of price. The silks from the Punjab, however, are excellent, and the color of the various dyes very brilliant. Some of these fully come up to the best French and English silks, though in point of cost they could not stand the test of competition, which, however, might, in a great measure, be overcome if the gold borders, which generally are woven into the ends of the silks, were omitted.

21. The embroidered silks and brocades from Benares stand unrivalled. The workmanship is of the highest finish, whilst the interweaving of the gold and silver threads with the silk shews exquisite taste. It is to be regretted that only so few of these exquisite fabrics are adapted for European use, and indeed the present specimens have been forwarded more with the view to shewing what native artisans can produce, than in the expectation of any advantage resulting therefrom to the local manufacturers. The kinkobs or brocades are extremely rich, but their use in Europe will be restricted to the covering of furniture, for which purpose, however, they are much too expensive; whilst, on the other hand, the majority of people who can afford the outlay, would, in all probability, prefer the manufactures of Lyons to the kinkobs of India.

22. The greater portion of the collection under this head consists of manufactures in specimens of cloths, &c., made Cotton and Hemp. by prisoners in the various jails, and those coming from the Punjab and from Meerut are worthy of special notice. The most important are, however, the hemp fabrics of the Borneo Company, established at Barnagore near Calcutta, the steam-works of which afford employment to a large number of the neighbouring population. The fabrics consist of gunny clothes and sacks, and establish the fact, that where the consumption of manufactures, however small their intrinsic value may be, is large, machinery worked by steam will successfully compete against the cheapness of Indian manual labor. Cotton goods, with very few exceptions, afford a singular contrast to the general improvement which has taken place in the manufactures of India. The specimens of coarse fabrics forwarded on this occasion are almost the same as they were ten years ago, and in some of the finer fabrics there is a marked falling off. The only way in which this anomaly can be explained is the fact, that whilst the consumption of coarser cloths has greatly increased and thereby caused a rise in their market value, the limited means of the consumers, with the

enhanced cost of all sorts of comestibles, prevents them from paying beyond a certain maximum price even if they could obtain a better article at an advance of a few pice. The manufacturer, on the other hand, prefers confining himself to the production of coarse fabrics, which command an extensive and ready sale, and bring a speedy and remunerative return. The only cotton manufactures which have as yet passed through my hands, and show real improvement, are the tablecloths, napkins, and towels from Patna, which are particularly good.

23. The collection of silk and cotton manufactures is accompanied by three valuable books. The first contains specimens of the different silk patterns used by the inhabitants of the Punjab, specifying those peculiar to Mahomedans, Hindoos, and Sikhs, respectively, and those which have been introduced since the period of English rule. The second shews the cotton fabrics used as articles of dress by the agricultural tribes of the Punjab, distinguishing the different classes to which the patterns are peculiar. These two books have been forwarded by the Central Committee of the Punjab, and though in themselves most valuable, their value will be enhanced by the collection of photographs which is now being made of the various tribes and classes inhabiting the vast territories of India. The third book has been presented by His Highness Sir Jung Bahadoor, K. C. B., consisting of a large number of specimens of colors produced by a combination of Indian dyes, and though some doubt appears to exist as to this large variety of colors being the result of repeated experiments of the Nepalese dyer, who is stated to have lost his memoranda as to peculiar dyes from which he obtained the colors, the book itself establishes the fact that the colors themselves can be produced from substances indigenous to India. There is also an assortment of samples of dyed cotton cloths forwarded by the Central Committee for the North-Western Provinces, which is particularly valuable, as it is accompanied by a description of the ingredients employed in producing the various colors.

24. The specimens of paper forwarded with the present collection comprise a large variety, and will prove interesting. There is the famous paper made of the Daphne plant at Nepal, illustrated by the fibre from which obtained, from the fresh shrub, with specimens of all the stages of its preparation. Then we have paper made of the bamboo fibre, of old hemp, aloe leaf, plantain fibre, Herberia kyanised, of rejected records, of old ropes, and of a number of other substances. That made by the prisoners at the jail of Meerut seems to be particularly good, and specially adapted for the packing of fine fabrics, as it commends itself by its extraordinary resistance to dampness. The arsenicated paper, received from Hooghly, is supposed to be a strong protective against insects.

25. These manufactures, peculiar to Calcutta, and better known under the name of, "Commercolly work," have for many years past been admired in England. I am not aware whether they are produced in any other part of India, but I am positive that none were received at the Paris Exhibition of 1855 from any other place than Calcutta. The specimens forwarded on the present occasion shew but little progress in work-

manship, but there is a decided improvement of style and of adaptation to English taste. The feathers and plumes are superior and of greater variety than those sent on former occasions, but they still leave room for considerable improvement.

26. Of these the collection is very small, but the specimens are the best I have seen in the course of my Indian experience. The manufactures in straw of Monghyr are very good indeed, and their merit is enhanced by their extraordinary cheapness. Two "reticules" of straw costing only about 3d. each, are superior to the best work of that description I have seen either in Germany or Switzerland, leaving the relative price of the articles themselves out of question.

27. The lacquer work comprises an assortment of articles from various parts of India, but among these there are very few deserving of notice. Those sent from Bareilly shew a very great improvement in comparison with what was forwarded to the Paris Exhibition; still the work falls very short from even the common articles of similar description made in China. Three boxes, received from Burmah, are, however, of exquisite fineness of workmanship, remarkable for extreme compactness and fit, whilst the outer varnish is the finest I have ever seen; but, like most articles of India, the inside is very inferior, and greatly deteriorates the value of the boxes, which with little more care could be avoided.

28. The assortment of mats is limited in number, but this has been done advisedly, because, with the exception of Midnapore and Jessore, nothing is produced in Bengal that equals what Madras and the adjoining States can furnish. The mats of Midnapore, however, will stand the test of competition with the whole of India, and those sent on the present occasion reflect the highest credit on the manufacturers. One large mat, twenty-seven feet square, entirely eclipses that sent by the late Baboo Dwarkanauth Tagore as a present to the Queen, and the interest in it is heightened by the circumstance that specimens of the rushes from which it is made, in their various stages of preparation, as well as of the ingredients by which the peculiar dye of the mat is obtained, accompany it. There are likewise four small mats of the same description, and to these has been added a fifth, which is six years old, in order to shew the durability of these mats notwithstanding their extreme fineness. The great drawback to the more general adoption of these mats is, I am afraid, their high cost, though I have no doubt that such would be considerably reduced if a steady and regular demand existed for them.

29. The enamelled turnery from Lahore, called "Pack Puttan work," commends itself by superior workmanship and beauty of enamel. It is very highly finished, and will, both in point of work and cheapness of cost, attract attention, and stand successful competition with any similar work that can be produced at home. There are also some specimens of turnery from Patna, but much the same as those sent to the late Paris Exhibition.

30. The collection of Arms consists, with two solitary exceptions, entirely of private contributions, a portion of which has been presented to the Exhibition. There are some guns, swords, and daggers from

Ulwar, all richly mounted in gold, whilst the steel of the blades of the latter is of beautiful fineness and temper. A very handsome dagger has been presented by His Highness the Nawab of Bhawalpore, and some contributed from the Upper Provinces are very richly mounted. The guns and pistols from Nepal will shew how well native artisans can imitate European manufactures.

31. With the exception of what has been bought by the local Committees of Delhi and Benares, the assortment of jewellery as yet received consists entirely of private contributions, several of which have been presented to the Exhibition. The latter comprises the usual jewels worn by natives, and there is nothing to commend them to particular attention. The gold jewellery from Delhi, however, is worthy of notice, as it is almost entirely of European design, and shews great improvement of workmanship, though still not equal to what native goldsmiths can turn out under European superintendence, there being that absence of finish peculiar to all native manufactures. It is, however, extremely cheap, and will sell well in England.

32. In addition to a collection of clay figures from Kishnaghur, we have some specimens of plastic models from Oude. The great merit of the former consists in the faithful expression of physiognomy peculiar to the castes which they represent, whilst the way in which they are dressed conveys a perfect notion of the manner in which the several classes clad themselves. The plastic models of Oude, on the other hand, resemble in appearance colored statuettes of plaster-of-paris or gypsum, but being made of baked clay and solid, are very heavy. As specimens of modelling, I consider them superior to those of Kishnaghur, whilst the coloring is very good.

33. Of this we have a large variety of specimens in stone, ivory, marble, and various kinds of woods, and all of them are much superior to any forwarded either to London or Paris. The stone figures from Gyah are remarkable for the correctness of anatomical proportions, but they are by no means cheap. Some beautiful specimens of sculpture in stone and ivory have been presented by His Highness the Maharajah of Ulwar, but I doubt the latter being the production of Indian sculptors. The collection of sculptures in soap stone from Agra is beautiful, and I have no doubt that it will attract considerable attention in England; the same is the case with the carved wood-work from Bijnour, which is really very fine. Some carvings in ebony from the same District are most excellent, but their merit is negatived by the extreme clumsiness of the articles themselves inside, which considerably detracts their value, and reduces them to the standard of cabinet-work.

34. What has been forwarded on the present occasion consists entirely of Machinery in general models only, and their collection is extremely limited. All of

them, however, have the fault that they are of a much higher finish than the originals which they represent, and hence the primary object, *viz.*, of shewing what imperfect machinery natives employ in their various occupations, and the advantage to be expected from the adoption of European appliances is in some measure frustrated.

35. The foregoing remarks refer only to the articles which have already been received by me; but there is still a large collection to come, consisting of specimens, which will considerably add to the general display. These are the Dacca muslins, the Cuttack silver filagree work, the mosaics of Agra, and the ivory carvings from Berhampore, on which a further report will be submitted in due course.

36. From the above it will be perceived that the present contributions to the forthcoming Exhibition present the following peculiar features, *viz.*—

1st.—That the collection has been made in a much shorter time than on any of the previous occasions.

2nd.—That the number of specimens are more than twice those forwarded to the London Exhibition of 1851.

3rd.—That although so much more extensive, it will actually require less space than in 1851.

4th.—The convincing proof it will afford of the surprising improvement which has taken place in several manufactures and works of art.

5th.—The number of new specimens it contains; and

6th.—The comparatively small outlay at which the collection has been effected.

37. I have now only to report upon the progress of the official catalogue. The manuscript is so far completed that, as soon as I receive the Returns from the Punjab and the North-Western Provinces, the same will be ready for the printer. The accompanying proofs of the first four pages already set up in type will shew what the catalogue is intended to be. I am doubtful whether it is the intention of the Central Committees of Bombay and Madras to send a copy of their catalogue for incorporation with ours, but; under any circumstances, the publication of the latter ought not to be delayed beyond the beginning of February, for the principal object and use in view would be frustrated if the catalogue were not ready and available in England on the very day of the opening of the Exhibition. I would therefore suggest that should the copies of the Bombay and Madras catalogue reach after the end of this month, the same be published as a Supplement.

A. M. DOWLEANS.



SUPPLEMENT TO The Calcutta Gazette.

WEDNESDAY, FEBRUARY 12, 1862.

OFFICIAL PAPERS.

A SUPPLEMENT to the GAZETTE will henceforward be published, weekly or twice a week, according to circumstances, containing such Official Papers and Information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.

Non-Subscribers to the GAZETTE may receive the SUPPLEMENT separately, on a payment of six Rupees per annum if delivered in Calcutta, or twelve Rupees if sent by Post.

No Official Orders or Notifications, the publication of which in the GAZETTE is required by Law, or which it has been customary to publish in the GAZETTE, will be included in the SUPPLEMENT. For such Orders and Notifications the body of the GAZETTE must be looked to as heretofore.

Home Department.

Liability of Mines to Assessment for Land Revenue.

TO THE RIGHT HON'BLE SIR CHARLES WOOD,
Bart., G. C. B.,
Secretary of State for India.

Dated Calcutta, the 27th November 1860.

SIR,—We have the honor to transmit for your information the accompanying copy of a letter No. 2243, dated the 15th instant, addressed to the Government of Bengal, on a Memorial from the Directors of the Bengal Coal Company, (a copy of which is also forwarded,) respecting the right of Government to assess the produce of Mines; and to call your attention to our decision to exempt from assessment the produce of Coal Mines in Estates not permanently settled, belonging to private persons.

2. We have forwarded copies of our letter to the Government of Bengal, to the other Local Governments and Administrations for their information.

We have, &c.,

(Signed) H. B. E. FRERE,
CECIL BEADON.

From W. GARY, Esq., Secretary to the Government of India, Home Department, to W. S. SEYON-KARR, Esq., Officiating Secretary to the Government of Bengal, (No. 2213, dated the 15th November 1860.)

I AM directed to forward the accompanying Memorial which has been addressed to the Government of India by the Directors of the Bengal Coal Company, complaining of the purport

of an order passed by the Hon'ble the Lieutenant-Governor upon a reference from the Board of Revenue respecting the right of the State to tax the produce of Mines.

2. In the reference from the Board two points were raised, namely—

First, whether, in making a permanent settlement of land, being private property and not the property of the State, the Government can reserve a right to tax the produce of Mines at a future period, independently of the land revenue.

Secondly, whether, in making a permanent settlement of land, the Government can legally include rent derived from Mines actually at work, as part of the assets from which the permanent jumma is calculable.

3. On the first of these two points the Lieutenant-Governor, upon grounds which appear to the Governor General in Council to be unassailable, has ruled that no right to prospective taxation of minerals can be reserved in making a permanent settlement.

4. On the second point the Lieutenant-Governor, adopting the principle declared in a paper written by Mr. Millett in 1842, that the State has a right to a share of the produce of land in minerals as in other things, whenever it has not abandoned the right by compromise, or otherwise, has ruled "that the rent of Mines existing tangibly and definitely at the time of the settlement should be treated as an asset of the estate to be settled in the calculation of the jumma."

5. It is against this last ruling that the Bengal Coal Company appeal, and at the same time they raise a further issue, namely, that the Government had no legal right to make certain temporary settlements of the resumed estate in which their Mines are situated, which settlements are alleged to have been made in 1842, 1848, and 1858; and that, assuming the right of the State to assess the produce of the Mines at all, such right

could be legally exercised only on the basis of the first settlement made after the resumption of the estate.

6. The Governor General in Council, I am desired to state, entirely concurs in the view held by the Lieutenant-Governor respecting the right of the State to assess the produce of Mines as a portion of the general produce of the land. He has no doubt whatever that, according to law, the produce of Mines is an asset of the land revenue, and may be calculated as such in determining the jumma of a resumed lakhiraj estate. But he also agrees with His Honor in thinking that the proprietor of a resumed lakhiraj estate in a permanently settled district, is entitled to a permanent settlement thereof based on the assets as existing at the time of resumption.

7. Further, the Governor General in Council is of opinion that, as a matter of policy, it will be wise in the Government to relinquish its right to derive a revenue from Coal in unsettled estates being private property, or to include in any future settlement of the land revenue of any such estate the produce of Coal Mines as an asset thereof. Besides the objection which arises from the fact that Coal Mines are exhaustible, and that consequently their produce, though legally assessable, cannot be relied on as an asset for any great length of time, much less in perpetuity, it appears to His Excellency in Council that the vast importance of the Coal trade specially demands the removal of every impost which can have the effect of discouraging the working of Mines by their owners, or of raising the price of Coal consumers. At present, no doubt, the profits of the trade are high enough to enable the proprietors of Collieries in unsettled estates to pay a proportion of the value of their annual produce to the Government, but His Excellency in Council does not consider it expedient either to diminish the inducement to further production by subjecting those profits to special taxation, or to impose a burden which might have the effect of preventing the opening of Mines in more distant and less accessible localities, where otherwise they might be worked at a profit.

8. In estates which have been permanently settled, the Government is barred from demanding any more revenue on account of Coal, and the Governor General in Council thinks it should refrain from enforcing its demand for revenue on account of the produce of Coal Mines in all other estates.

9. A copy of this letter will be communicated to the Memorialists, and I am directed to request that the Revenue Authorities in Bengal may be instructed to guide themselves by the view which it expresses.

From the Right Hon'ble SIR CHARLES WOOD, *Bart.*, Her Majesty's Secretary of State for India, to His Excellency the Right Hon'ble EARL CANNING, Governor General of India in Council,—(dated London, the 8th March 1861.)

MY LORD,—I HAVE considered in Council your letter of the 27th November last, and I have to signify my approval of your Resolution to exempt from assessment the produce of Coal Mines in Estates not permanently settled, belonging to private persons. I am of opinion that it is inexpedient as a matter of policy to throw any impediment by means of special taxation in the way of persons desirous of working such Mines; but I abstain from expressing any opinion on the question discussed by the Lieutenant-Governor, whether

the produce of Mines was or was not included among the assets on which the permanent settlement was founded until I shall have perused the paper recorded by Mr. Millett in 1842, which is referred to in Mr. Grey's letter of the 15th November last, and with a copy of which I desire to be supplied. The profits derived from Coal Mines, like profits derived from any other source, will, of course, continue liable to assessment for the Income Tax.

I have, &c.,
(Signed) C. WOOD.

TO THE RIGHT HON'BLE SIR CHARLES WOOD,
Bart., G. C. B.,
Secretary of State for India.
Dated Calcutta, the 16th May 1861.

SIR,—IN compliance with the request contained in your letter dated the 8th of March, we have the honor to transmit the accompanying copy of Mr. Millett's letter to the Government of Bengal, dated the 26th March 1842, regarding the proprietary right in Mines situated in permanently settled Estates.

We have, &c.,
(Signed) CANNING.
" H. ROSE.
" H. B. E. FREER.
" R. NAPIER.

Copy of a letter from F. MILLETT, Esq., to F. J. HALLIDAY, Esq., Secretary to the Government of Bengal,—(dated the 26th March 1842.)

I HAVE the honor to acknowledge the receipt of Mr. Deputy Secretary Young's letters Nos. 1318 and 1477, dated respectively the 24th August and 28th September 1841, forwarding correspondence from Major J. R. Ousely, the Commissioner in Chota Nagpore, relating to the Coal Mines in certain Ghatwallee lands in Pachete, and requesting my opinion on the points therein discussed.

2. The questions involved in these papers may be thus stated—

1st.—Has the Government the proprietary right in Mines situated in permanently assessed Estates of Zemindars?

2nd.—Has the Government the proprietary right in the Coal Mines in certain Ghatwallee lands in Pachete, or is this right vested in the Zemindar, or have the Ghatwalls any title or interest in them?

3rd.—In regard to the first question it appears to me that Government can have no right of ownership in Mines situated in lands the property of others.

According to the Mahomedan Law "a Mine is constituent part of the land in which it lies, and as such upon a transfer by sale of the land the Mine becomes the property of the purchaser." It is the Law of England also that Ores or Mines in the soil of a subject belong to the proprietor of the soils excepting Mines of Gold and Silver which belong to the Sovereign by prerogative.

Though it may happen that the right to the Minerals and the fee simple of the soil are on different persons either by reason of a special exception in case of conveyance or from other particular cause.

Case of the Queen (Elizabeth) versus the Earl of Northumberland. Plowden's Report, pp. 310-40.

Sloughton versus Leigh. Tainton's Reports Vol. 1, pp. 401-12 (1808.) Rave and Greenfel. Ryan and Mordy's Reports pp. 396-9 (1824.)

4th.—But there is another question which arises out of this part of the subject which has not been adverted to, *viz.*, whether the Government is entitled to any portion of the produce of Mines situated as above in the shape of revenue.

5th.—By the Mahomedan Law, the Sovereign is entitled to a fifth of the produce of Mines discovered in Kheeraj lands which is distinct from the Kheeraj or land tax, and according to the same Law, separate Treasuries should be established for the reception of the different branches of revenue, but the practice of the Mahomedan Government in this country does not appear to have been in conformity with the Law on this point. "Sum-

Hidaria, Vol. 1, pp. 39-41.
Ditto, Vol. 2, 201.
Law and Constitution of India, pp. 59-98-15-16.

Vol. 1, 351.

marily," says the Author of the Ayeen Akberry, "the quit rent is called Mal, the taxes on manufactures, Jehat, and all other imposts, one in general, named Syerjehat."

The points of importance to be ascertained is how the constitutional right of the Government to a portion of the produce of Mines was affected by the great measure of the permanent settlement.

6th.—I can find no mention of the produce of the Coal Iron, or indeed, of any Mines in the general discussions which took place at the period of the settlement, nor perhaps is this surprising considering the little notice they had then attracted, but there is evidence to show at the date of the Dewanny Grant, the Government share of the produce of Mines was incorporated with the Mal or land tax.

7th.—Mr. J. Grant describing the Territorial Analyses of the Finances of Abwahs brought to the Bengal. Appendix 5th Report, public account as Keff- pp. 286-89. yet or profit by Cossim Ullee Khan, thus speaks of the result of the Nuwaub's financial operations under the head of "Keffyet Hustabood" on the Revenue of the District of Beerbhoom.

"Accordingly, the Militia Establishment was in (Page 228), and see also page 327. great part reduced, and the assigned lands resumed by Government, which, together with the result of a local scrutiny into the yearly receipts of rent from the Ryots throughout the rest of the District, enabled the Soubadar to form an equitable standard for the future assessment of the whole Territory on the prescribed and only solid foundations of a proper settlement technically understood by the word Hustabood, indicating a comparative view of former and actual sources of gross Revenue; and if a larger increase of annual income might have been expected from the old rated lands chiefly in consideration of their ascertained superior worth, or perhaps in small degree on account of the valuable commodities of Iron Coal and Tassar Silk in a manner peculiar to this Province, besides the other more ordinary productions of Bengal. We are to recollect that the two former articles found chiefly on the surface of the ground, and the latter formed abundantly in the woods by a caterpillar feeding on the Bere and Saul tree, instead of the Mulberry, afford more than a presumptive proof of general poverty of soil, or at least the imperfect state of cultivation."

It is to be observed that the total net Revenue of the Subah of Bengal, under every denomination as established during the administration of Cossim Ullee Khan, continued thenceforward until the acquisition of the Dewanny.

8th.—The History of the Loha Mehal, in Zillah Beerbhoom, is fully set forth in the case of Goorooopershad Bose,

Sudder Dewanny Reports, Vol. 1, pp. 337-43.

Appellant, *versus* Bisnoochurn Hezra, decided by the Court of Sudder Dewanny Adawlat on the 31st July 1811. The exclusive right of the late Zemindar of

Beerbhoom to the Iron produced in his Zemindaree was therein established. The collections from this source of profit formed a distinct Mehal of his Estate, and constituted one of the assets on which the Revenue

of the whole Zemindaree was fixed at the Decennial Settlements, and this Mehal was sold as one of those composing the estate on the public sale of its component parts in satisfaction of the arrears of Government Revenue. It appeared, however, that there were some partial Loha Mehals in the late Zemindaree annexed to particular land Mehals.

See correspondence between the Board of Revenue and the Collector from 1788 to 1791.

9th.—Very important principles respecting the operation of the permanent Settlement are to be found in the Resolution of Government, dated the 24th December 1818, embodied in a letter addressed to the Board of Commissioners for Behar and Benares, which terminated the discussions on the subject of the right of Government to a separate Revenue from the Nimucksaur or Saltpetre Mehal in Bengal, Behar, and Benares.

The following are extracts from that letter:—

Para. 2.—"The original right of Government to derive a Revenue from Saltpetre in the same manner as from other products of the soil appears to be undisputed."

Para. 3.—"The only question is how far that right has been permanently alienated by special grants or compounded for by the general operation of the settlement."

Para. 20.—"The perpetual settlement as Government have of late repeatedly had occasion to announce* was a compromise for the share of the State in the profits and resources of whatever description of lands to which the settlement extended."

"If exceptions to the operation of that compromise are set up, the burthen of proof is distinctly on Government."

"The Governor General in Council is decidedly of opinion that in all cases respecting the Saltpetre produced within Estates permanently settled, a clear reservation (either express or by the facts of the Nimucksaur) must be shown to entitle the Government to make any demand on account of that article."

"Before acting on any general statement that the Durkhasts given in or Cabooliuts executed by the proprietors of any tract of country exclude the Nimucksours, it will be proper to call for and inspect the several documents referred to. The contents of one must not be inferred from those of another, still less must the exclusion of the article be presumed from the silence of the records regarding it."

"The article must in the judgment of the Governor General in Council be presumed to have been included in the settlement in all cases in which there may not exist distinct proof of its exclusion."

"The extent to which the general right of Government (to share in the produce of the soil) has been limited by the perpetual settlement, it must be superfluous to state, nor can it be necessary to inform your Board that on the principles of that great measure it is not enough for the purpose of justifying the demand of an increased Revenue to show that a particular article of profit was not included in the assets when the permanent jumma was adjusted. It must, as already intimated, be shown that the article was unequivocally excepted either in express terms or by facts forming a necessary virtual exception."

On those grounds the claim advocated by the Board of Commissioners on behalf of Government to additional Revenue from the Saltpetre Mehals in the three Provinces was abandoned.

10th.—On examining the records of the Decennial Settlement concluded with the Rajah of Pachete, I find no notice of Coal Mines; indeed, the Collector's Statements contain no particulars of the assets on which the jumma was adjusted.

An application was made by Mr. J. L. Heatly in 1822 to the Secretary to Government in the Territorial Department, "for copies of documents relative to certain Coal Mines in the District of Pachete, granted by the Ramghur Rajah to his father, Lucionius Grant Heatly, jointly with Messrs. J. Sumner and Redferne, sometime between the years 1773 and 1776," the documents specified being the Grant of the Rajah, and the Government Sunnud confirming the same. In a previous application to the Board of Revenue, dated 19th October 1821, he stated:—In December 1777, I find a quantity of Coals, the produce of these Collieries, amounting to 2,000 maunds, were delivered into the Company's Military Stores.

I am not aware what documents exist among the Government Records on the subject of Mr. Heatly's inquiry, but if the Mines were not worked at the period of the Decennial Settlement, it is probable no mention will be found of them in the detailed accounts of the Settlement in the Collector's Office; the Government Revenue having been adjusted on the actual resources of the Zemindaries. Indeed, I gather from Captain Hannington's letter* that they are silent on the subject.

11th.—Mr. W. Jones, who established Collieries in Pergunnah Shearghur, in Zillah Jungle Mehals, in 1816, in a letter to Government, dated 22nd May of that year, says:—

"Having been under the necessity of building six large huts, and occupying ground and rock together to the amount of ninety-nine beegahs,

First Appendix to the Third Report of Select Committee of House of Commons in 1831, page 357.

I was in justice bound to take a pottah from the proprietors of the land which is in Shearghur Pergunnah, Zillah Jungle Mehals, and Zemindaree of the Revenue of Burdwan; I also take a Grant of all the Coal in the Shearghur from the Rajah of Burdwan. I am not certain that he holds the right to give such a Grant, however, those papers being in my own name, I shall deliver them over to Government whenever that may be called for, and I hope I may not be thought presumptuous in taking them without orders, as I have merely done it to prevent trouble hereafter."

It appears from Mr. T. Braeken's evidence before the Select Committee of the House of Commons in 1831, that the late Firm of Alexander and Company, who had a contract with Government to supply them with Coals for their Marine and Mint Departments, held a perpetual lease from the Rajah of Burdwan of the lands in which the Coals were produced.

The Government do not appear to have regarded themselves either as the proprietors of these Coal Mines, or as being entitled to draw an additional revenue from the profits of them.

12th.—On the whole, I conclude that the Government cannot claim any additional revenue from the Coal Mines, the Zemindaree lands of Pachete, unless it can be clearly shown that the right to do so was specially reserved at the time of the settlement.

13th.—I now come to the second division of the subject, and first as to the right of Government to the property in the Coal Mines in the Ghatwallee lands of Pachete. I understand that these Ghatwallee or Deegwarree lands are situated in the Zemindaree of the Rajah of Pachete, that they are

interspersed with the Jagherdaree and Malgoozaree

* Major Ousely refers in his letter of the 17th July 1841 to Regulation XXIX., 1814, relating to certain Ghatwallee tenures in Beerbhoom, but on examining into the history of those peculiar tenures, I do not perceive any thing analogous to the present case. I may here remark that many of the Estates in the Behar portion of Zillah Ramguri were permanently settled with persons denominated Ghatwals; see Statement enclosed in Collector's letter dated 21st June 1791.

lands, and that there is no difference between the Deegwarree and Jagherdaree lands, except that the latter pay a quit rent to the Zemindar, and the former are held rent free.* I consider therefore in the absence of any proof to the contrary, that the Rajah is the proprietor of the soil, and consequently for the reasons assigned in the discussion of the first question that Government have no right of ownership in the Mines.

Captain Hannington states† that the Ghatwallee are lands "which at the time of the Decennial Settlement were set apart for the maintenance of a rural Police, and were in consequence left entirely unassessed. It has therefore been usual to assume that these lands are the real property of Government, the Zemindar having no right whatever in them. Indeed, the same thing is clearly implied in Clause 4, Section VIII., Regulation I., 1793."

But in this view, Captain Hannington does not distinguish between the proprietary right and the right of Government to assess the lands in question. The general character of the Police lands is that they were lands allotted by the Zemindars out of their estates for the maintenance of Police Officers whom they were formerly bound to keep up for the preservation of the peace of their Districts; when therefore the Government undertook the charge of

† See Circular Order of Government to the Collector, dated 12th April 1793.

the Police, and the produce of some of the lands was resumed under the clause above quoted, the Collectors were directed‡ to make the settlement of them with the Zemindars of the estates in which they were situated as being likewise the proprietors of the land so resumed.

14th.—Thus the Government in communicating to the Acting Magistrate of Midnapore their sanction for the partial resumption of the produce of the Pyke lands in his District added, "the lands are of course to be left in the possession, and to continue the property of the landholders, and the resumed portion of the produce of them is to be collected and brought to account in the modes prescribed in the orders this day issued to them."

So also when the Collector of Beerbhoom, after having received the sanction of Government for the resumption of the Police Jagheer lands in his District, spoke of them as "late the property of the Zemindar," and of "receiving charge of them from him;" the Board of Revenue in addressing Government on the subject observed:—"We apprehend that the Collector has misconceived the intent of the Regulations in supposing that they are to be taken from under the charge of the Zemindar, the object of the Regulations. On this point being, as we conceive, only to subject the Zemindar to the payment of such a sum over and above his fixed jumma as may appear proportionate to the produce of the lands which were heretofore set apart for the support of the Police."

Board of Revenue, 18th October and 13th December 1794.

Board of Government, 19th February 1794.

Again, when the Rajah of Burdwan objected to engage for the resumed Sannahdaree lands of his Zemindaree, and the Collector as one mode of overcoming the difficulty proposed, that (if not inconsistent with the Rajah's

Collector to Government, 10th June 1793.

proprietary right) the lands should be sold by auction, either upon the assessment proposed, or on such an assessment as might be deemed reasonable after local

Government reply, 26th July. investigation and deduction of the proprietary 10 per cent. The Government informed him that in their opinion "it would neither be proper nor just for Government to retain possession of the lands or to dispose of them at public sale."

15th.—The question whether the Zemindars or the Ghatwalls have a right to the produce of the Coal Mines in the Ghatwallee lands, I find to be a very difficult one. It is in some measure connected with another discussed in the papers of this reference, *viz.*, whether the Zemindar has a right to enhance the rents of the Police Jagheerdars on his Estate.

16th.—On the part of the Zemindar it might be urged that the lands described in Clause 4, Section VIII., Regulation I, 1793, having been formerly allotted by him for the maintenance of certain descriptions of Police Officers, and he having been peremp-

torily required to discharge those Officers on Government taking upon itself the charge of the Police, it is at his election to impose such rents upon their lands as the neighbouring lands of a similar quality are assessed at, and in case of the present occupants declaring to engage for them on these terms, to make such other arrangement respecting them as he thinks proper: also, that being the proprietor of the soil he has a right to the produce of the Mines it contains. It must be supposed at the same time that the Zemindar expresses his readiness to enter into engagements for the payment of the Revenue which may be fixed upon the lands according to their produce, including that of the Mines, whenever Government may think fit to resume the produce under the Clause above quoted.

17th.—As the Police Chakeran lands of all descriptions must fall within the provisions of either of Clause 4, Section VIII., Regulation I, 1793, or Section XII., Regulation VIII., 1793, in which latter case they are at the disposal of the Zemindar; I do not perceive how the above plea can be refuted, but it is certain that the practice at least in the South-Western Districts of Bengal has been different, and that there the Police Officers occupying the lands contemplated in the first mentioned Clause, the produce of which has not been resumed, have been continued as if in the employ of Government. If this practice be admitted to be legal, it would, I think, follow that the Zemindar has no right either to assess such lands when held rent free or to increase the assessment of such as pay a quit rent so long as the Government find it expedient to keep up the Establishment of Officers occupying them. The lands must in that case be regarded as having been made over by the Zemindars to Government for the purposes of Police during the pleasure of the latter in consideration of themselves having been relieved from the burthen of preserving the peace of their estates. And then as Captain Hannington justly remarks, "in season the rents ought to be unalterable, for if not, they might be raised until the tenure ceased to be remunerative, and then what would become of the Police."

And I observe it stated in the Report of the Collector of Midnapore, dated 25th June 1828, that on the investiture of the Zemindars of Midnapore with a joint charge of the Police of his estate, and the consequent restoration to him of the resumed Pyke Jagheer lands, he bound himself by his Kabooliat not to resume any of these lands, and not to demand any revenue from the Pykes beyond the Peshkush paid by them previously to 1793 on account of their Behallee Jagheer lands.

18th.—Although it seems clear in this view of the case that the Police Ghatwalls and Jagheerdars of Pachete would be entitled as respects the Zemindar to the profit which they might derive from their lands by the improvement of cultivation and the clearance of waste, the point still remains whether they would be also entitled to the produce of the Mines.

19th.—By the Mahomedan Law a mere leaseholder would probably not be considered entitled to work new Mines, because at "the expiration of the lease the land must be restored in its original state," and I believe that by the English Law a tenant for life cannot open new Mines, but the tenures under consideration are of a peculiar kind, and I can discover no law or precedent applicable to them. Before coming to a decision it would be proper to ascertain, if possible, what are considered the relative rights of the parties in similar tenures in other parts of the country.

If the Zemindar's right to the Mines be established, it might then be a question whether the Government would not be entitled to a Revenue from the Zemindar's profit from the Mines. On the ground that the Police lands were excluded from the operation of the permanent settlement, and an equitable compensation would be due from the Zemindar to the Ghatwalls for the produce of any lands which might be rendered unfit for cultivation by opening new Mines.

On the other hand it might be pleaded on the part of the Zemindar that under Clause 4, Section VIII., Regulation I, 1793, only such produce of the lands as was appropriated for Police purposes was excepted from the operation of the settlement, and the minerals having been judged not to form a portion of such produce, the Government right as regarding them must be held to have been compounded for at the settlement in common with all other profits not specially excepted from that arrangement.

From the Right Hon'ble SIR CHARLES WOOD, *Bart.*, Her Majesty's Secretary of State for India, to His Excellency the Right Hon'ble EARL CANNING, Governor General of India in Council,—(dated London, the 24th December 1861)

MY LORD,—I HAVE considered in Council your Excellency's letter of the 16th May last, with which you forward copy of a letter from Mr. Millett to the Government of Bengal, dated the 26th March 1842, regarding the proprietary right in Mines situated in permanently settled Estates, which was called for in my Despatch of the 8th March last.

2. In that Despatch I stated that I should refrain from expressing any opinion on the question discussed by the Lieutenant-Governor of Bengal, whether the produce of Mines was or was not included among the assets on which the permanent settlement was founded, until I should have perused Mr. Millett's paper, which, although referred to, was not included among the documents which accompanied your previous letter.

3. From the information collected by Mr. Millett, it would appear that the produce of Mines, where they were known to exist, did form one of the assets on which the Decennial Settlement, which preceded the permanent Settlement, was based, and I am quite prepared to agree in his conclusion, that in permanently assessed Estates the Government "can have no right of ownership in Mines." As regards Estates to be hereafter permanently settled, I am of opinion that the ruling of the Lieutenant-Governor of Bengal, that the rent of Mines existing tangibly and definitely at the time of settlement may be treated as an

asset of the estate to be included in the calculation of the jumma, is perfectly correct as a matter of strict right, but I am at the same time disposed to concur in the view taken by your Excellency in Council, as expressed in the letter from Mr. Secretary Grey to Mr. Secretary Seton-Karr, dated the 15th November 1860, that, as a matter of policy, it will be wise in the Government to relinquish its right to derive a revenue from Coal in unsettled estates being private property, or to

include in any future settlement of the land revenue of any such estate the produce of Coal Mines as an asset thereof.

4. The question discussed in Mr. Millett's paper as to the relative rights of the Zemindars and Ghatwalls to Coal Mines in Ghatwallee Estates does not seem to call for observation in this place.

I have, &c.,
(Signed) C. Wood.



SUPPLEMENT TO The Calcutta Gazette.

WEDNESDAY, FEBRUARY 19, 1862.

OFFICIAL PAPERS.

A SUPPLEMENT to the GAZETTE will henceforward be published, weekly or twice a week, according to circumstances, containing such Official Papers and Information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.

Non-Subscribers to the GAZETTE may receive the SUPPLEMENT separately, on a payment of six Rupees per annum if delivered in Calcutta, or twelve Rupees if sent by Post.

No Official Orders or Notifications, the publication of which in the GAZETTE is required by Law, or which it has been customary to publish in the GAZETTE, will be included in the SUPPLEMENT. For such Orders and Notifications the body of the GAZETTE must be looked to as heretofore.

Home Department.

Abstract of the Proceedings of the Council of the Governor General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic, c. 67.

THE Council met at Government House on Wednesday, the 12th February 1862.

PRESENT :

His Excellency the Viceroy and Governor General of India, *presiding*.
His Honor the Lieutenant-Governor of Bengal.
His Highness the Maharajah of Puttiala, K. S. I.
The Hon'ble Sir H. B. E. Frere, K. C. B.
The Hon'ble Cecil Beadon.
Major General the Hon'ble Sir R. Napier, K. C. B.
The Hon'ble S. Laing.
The Hon'ble W. Ritchie.
The Hon'ble H. B. Harington.
The Hon'ble H. Forbes.
The Hon'ble C. J. Erskine.
The Hon'ble W. S. Fitzwilliam.
The Hon'ble D. Cowie.
The Hon'ble Rajah Deo Narain Singh Bahadoor.
The Hon'ble Rajah Dinkar Rao Rugonauth Bahadoor.

The Hon'ble MR. BEADON moved that the Bill to revive and continue in force for a further period Act XXXIII of 1857 (to make further provision relating to Foreigners) be passed.

His Excellency the PRESIDENT said that as no amendment had been made in the Bill as settled by the Select Committee, it could now be passed under Rule 27.

The motion was put and agreed to.

The Hon'ble MR. RITCHIE introduced the Bill for regulating the Bank of Bengal, and moved that it be referred to a Select Committee. He said that a few alterations would be proposed in the Bill, and he proposed that they should be published with it. The most important of these was a power to the Bank to take over the business of any local Bank, and to increase its Capital beyond that limit of double its present Capital, which the Bill, as at present drawn, provided. This amendment had been proposed by the Directors, and the Government saw no objection to its adoption. The second amendment was a merely formal one, namely the repeal, so far as the Bank of Bengal was concerned, of the Act XXVII of 1835. That Act was now no longer necessary. The third amendment would be a provision that no two partners of any one Firm should be Directors of the Bank at the same time. The Clause would extend to any one partner in conjunction with any person holding a procuration from the same Firm, the object being to secure as independent a representation of the shareholders in the Direction as possible. He would propose that the Committee should report in a fortnight, as the period during which the Bank could continue to issue its notes would expire on the 1st of March; and the other alterations in the Bank's Charter were not so material as to require a lengthened publication.

The motion was put and agreed to.

The Hon'ble MR. RITCHIE introduced the Bill relating to Breaches of Contract committed in bad faith, and moved that it be referred to a Select Committee.

The Hon'ble MR. HARRINGTON said that he would preface the observations which he deemed it right to address to the Council on the motion for the introduction of this Bill, by saying that whatever were his own views on the subject of the Bill it was not his intention, unless he found from the course taken by the debate on the

present motion that the majority of this Council was with him, to oppose the motion for the reference of the Bill to a Select Committee or its immediate publication for general information. He might however consider it consistent with his duty, should the Bill ever go to Committee, to propose an amendment in some of its provisions. He rejoiced at the abandonment of the Bill of last year, because he believed it to be opposed to sound principles of legislation; and he had a strong conviction that had that Bill passed into law it might have been perverted, as the Statement of Objects and Reasons of the present Bill stated, into an instrument of extortion and oppression. He believed also that, instead of assisting, it would have injured those for whose especial benefit it was designed. He heartily sympathized with those persons, and was most willing and anxious to afford them every relief which legislation could properly give. Nothing had occurred since the Bill of last year was discussed to alter the opinion which from the first he had formed of it. The present Bill, rightly as he thought, excluded the jurisdiction of the Criminal Courts altogether, and confined the jurisdiction to Civil Courts, which alone were competent to deal with the equities that must constantly arise in questions respecting Contracts. The imprisonment, too, provided by the present Bill would be in the Civil, and not in the Criminal Jail, and the defaulters would thus be saved from association with the most degraded classes of offenders and from all the contaminations of the Criminal Jail. To these provisions of the present Bill he could of course have no objection. Indeed, the present Bill was comparatively of so mild and gentle a character, and if it would not greatly benefit those for whose advantage it was designed—and truth compelled him to say that he did not think it would benefit them in the slightest degree—on the other hand the persons who were the objects of the Bill might so easily avoid its most stringent provision by an outlay of one Rupee or one Rupee eight annas a month, that he felt some compunction in saying a word against the Bill. But the Bill involved a very important principle. They were now called upon, he believed for the first time, to assent to the principle that, in certain actions of debt and damage, Judgment Debtors might be imprisoned, in default of payment of penal damages, at the expense of the State. They were asked to affirm the proposition that the dieting of such persons at the public expense was a legitimate charge on the revenues of the country. Were they prepared to assent to this proposition? Were they prepared to compel the Government of India to include this item of expenditure in its future Budgets? Was it a charge that had been provided for in the Budget of next year? There was no analogy between Criminal cases and the cases to which this Bill would apply. In Criminal cases the prisoners were rightly imprisoned at the public expense, for they were imprisoned for the protection, and therefore for the benefit of the public at large. But the imprisonment of private debtors stood on an entirely different footing. The case of a fraudulent Bankrupt might be quoted in support of this Bill; but a fraudulent Bankrupt was regarded as a public cheat or swindler who went about preying on the public, and his imprisonment at the public expense was defended or justified on that ground. Assuming, however, the principle of this Bill to be unobjectionable, he would ask, why was it restricted to cases of Contract in which consideration had

been given? Mr. Ritchie had referred to a Bill prepared by the learned Chief Justice, and said it was considered right to carry out the principle of that Bill to its legitimate extent. But if that principle were carried out to its legitimate extent, the Bill must apply, not only to Contracts on which some consideration had been paid, but also to all other Contracts and to all actions of tort. If the Bill could be rightly applied to actions of Contract, why should it not be applied to actions in which damages were given for adultery, for defamation, and personal injuries? He would ask if any calculation had been made as to the number of cases in which, as the Bill now stood, the Courts would have to exercise a discretion in carrying out this Bill. 2,50,000 cases a year was a low estimate. In the Calcutta Court of Small Causes alone there were between 30,000 and 40,000 cases instituted yearly, to a great portion of which the provisions of this Bill might apply, and he would ask if they were prepared to throw upon the Judges of that Court, and upon every Judge in the country, the obligation and responsibility of determining, in every suit of a Breach of Contract falling within the provisions of this Bill, whether there had been bad faith and a want of reasonable excuse or a wilful withholding or a wilful not doing from interested motives? He would take the case of a lady ordering a dress and paying for it with money with which she ought to have discharged a bill of another Milliner of long standing; was she to be liable to penal damages, and in default of payment to hard labor? Referring to the 12th paragraph of the Statement of Objects and Reasons, he apprehended that the Bill applied to a case of that nature. Such a law might be right in theory, but he questioned the expediency of reducing the theory into practice. The law was of general application and would have to be administered by Native Judges of every grade throughout the country, who might assess penal damages against European British Subjects, and declare them liable to imprisonment which might extend to two years with hard labor. The question arose, where were such prisoners to be confined, and what was to be the nature of the labor exacted from them? He would ask, what was the cause of this violent change in our legislation? The only reason he could discover was that a few months ago a system which did not rest on the only sound foundation, *viz.* the basis of mutual interest, broke down. But was it an adequate reason for imposing this Bill on the whole country that things had gone wrong in two or three Districts in Lower Bengal? Surely, it would be better to leave time and self-interest, aided by common sense, to work the remedies for the present state of things in those Districts. He would ask if any enquiry had been made as to what might be the cost of carrying out this Bill. The Report upon the Jails in the Lower Provinces showed that the average gross cost to the State of each criminal prisoner was 30 Rupees 8 annas a year, the average net cost 28 Rupees 2 annas, which, under favorable circumstances, never likely to occur in the case of Civil prisoners, might be reduced to 20 Rupees. There would be, therefore, a large expenditure for the Native prisoners confined at the expense of the State, and in the case of European prisoners the cost would be greater. Then in Civil Jails no means existed for employing prisoners in a manner to render their labor remunerative,

and workshops would be required, and instructors and extra guards. Having thus discussed the principal and shown, as he thought, that no adequate reason had been assigned for the introduction of the Bill, and that it might prove very burdensome to the public Revenues, he would enquire if it would satisfy those on whose behalf it was understood to have been introduced. A loud cry had been raised for a Criminal Contract Law which was to be the panacea for all that had been amiss in the Districts to which he alluded and elsewhere; to make dishonest men honest, to bring out Capitalists from Europe, and so aid in the development of the resources of the country. He was surprised at that cry, but he was not astonished at its gradually dying away. He hoped that this Bill would not revive it. He should be disposed to sympathize in the disappointment which no doubt would be felt by those who were so clamorous for a Criminal Contract Law when they saw this Bill, and found it so different from what they expected, were he not assured that a Bill such as they asked for would do them harm rather than good. He felt that it would be better for those persons to trust more to their own resources and to the remedies for the existing state of things at which he had hinted, they taking ordinary precautions and being fairly liberal in their dealings with the Natives, rather than press for legislation, which could do nothing towards amendment, and if it did not prove absolutely injurious, would probably be wholly inoperative. It was expected that Act XIII of 1859 would do great good in Calcutta. But what had been the result? He had made enquiries from some very respectable European and Native Tradesmen in Calcutta, and he was assured that, in the direction intended, the law had done no real good. Upon the first introduction of the Act they said they had instituted two or three cases under it, but the result had been so unsatisfactory, that they had given up having recourse to the Act, and were now endeavoring to put a stop to the system of advances, which appeared to be at the root of the evil which Act XIII of 1859 was intended to cure. He thought it would be a great misfortune if the introduction of this Bill fostered or encouraged the keeping up of a system which had proved so pernicious, and which had been so universally condemned. He presumed that, if this Bill passed into Law, Act XIII of 1859 would be repealed. He did not think the two Laws could co-exist. The same remark seemed to apply to a Clause which he understood it was proposed to add to Act X of 1859 (the Rent Law) allowing an award of penal damages in certain suits for the recovery of an arrear of rent. He had alluded to the penal damages which might be awarded in certain circumstances by the Civil Courts under this Bill. He thought that this provision might prove very oppressive. Take the following case:—A party contracted with another party to supply him with a certain quantity of Sugar, of a certain quality, at a certain price, within a certain period, and it was conditioned that, on failure to fulfil any part of the engagement, the Contractor should pay twice the amount he was to receive for the Sugar. A great rise took place in the price of Sugar, and the Contractor found it more for his interest to pay the penalty agreed upon, than supply the Sugar at the price contracted for. He was willing to pay the penalty, but the co-contractor not satisfied therewith instituted a suit under this Bill, and there

having been a wilful failure to fulfil the Contract from motives of interest, obtained a decree for penal damages, on account of which the judgment Debtor would be liable, in default of payment, to be imprisoned with hard labor. He was willing to pay the penalty, but he was unable to pay the damages assessed by the Court. In such a case he thought injustice would be done under the Bill. Very great misapprehension prevailed both at home and in this country in respect to the Code of Civil Procedure in accordance with which suits were conducted in India, and as to the remedies provided by the existing law in cases of Breaches of Contract and the like. Many persons seemed to imagine that no redress was obtainable under the existing law in such cases, or that it was obtainable only after very long and protracted litigation, in fact after something very like a Chancery suit. The misapprehension had created a great prejudice against the Indian Courts and against our Civil system generally, and had proved otherwise mischievous. It had appeared to him, therefore, that he should be doing useful service if he brought together in a brief and convenient form the various provisions of the existing laws on the two points which he had mentioned. The result of his labors would be found in a paper which, with permission of the Council, he would lay on the table of the Council. He thought that, on reading that paper, every one who had any knowledge of law, or had had any experience in the administration of Justice, would be surprised, not that the law had done so little, but that it had been able to do so much for persons complaining of Breaches of Contract. That paper would show that any thing more unlike a Chancery suit than an action for debt or damage for a breach of Contract carried on under the Code of Procedure now in force, could scarcely be imagined. It would be seen that all mere technicalities and forms not necessary to secure a degree of regularity had been excluded, and that substantial justice to be speedily afforded was what had alone been aimed at in framing the Code. He thought that if the persons who had occasion to institute suits of the nature of those to which this Bill was intended to apply would make themselves acquainted with the provisions of the existing law, as detailed in the paper prepared by him, and avail themselves of those provisions as occasions arose, they would find that there was already enough of good law for all useful and practical purposes, and that this Bill might be properly and safely dispensed with.

The Hon'ble RAJAH DINKAR RAO said he thought there was no necessity for this Law, for it was the duty of a person entering into a Contract to contract with a fit man and to take proper security. If after this there were a breach, the Complainant had a remedy for damages under Act VIII of 1859, or he might proceed under Section 415 of the Penal Code.

The Hon'ble Mr. ENSKINE said that he regretted to find that he differed considerably both from Mr. Harington and Mr. Ritchie, and expressed a hope that, if the Bill were allowed to go to a Committee, it would be the duty of that Committee to report, not merely on the precise Clauses, but generally on the remedies at present provided by Law in cases of fraudulent Breaches of Contract and on the different amendments of the Law which had recently been proposed. This was the third measure on this subject

which had been submitted to them within twelve months, and the Legislative Council should therefore attempt more than a partial solution of the question. A full solution could not be expected at once, but could only be effected by fair reasoning, experience, and the growth of settled public convictions. Indeed, the present Bill itself re-opened the whole question, and obliged the Council to consider whether the Criminal Law was sufficient, whether the Civil Law was sufficient, or, if they were defective, whether the present Bill met those defects. The Penal Code had effected great improvements in this as in other branches of the Criminal Law, by providing not only for Cheating and Criminal breaches of trust, but also for the fraudulent transfer of property, the malicious destruction of property, and the dishonest misappropriation of property. But while he acknowledged the great improvements effected by that Code, he believed without disrespect to its distinguished framers, that it might be still further improved, and that experience would enable them in some respects to improve it. He would allude at present to one particular class of cases only, in connection with which there had recently been much discussion. Suppose that a cultivator had contracted to cultivate a crop on stated lands; that he had made this Contract with a full intention to perform it; but that subsequently he was led to break it, either from animosity or greed of gain. He might know well that he could not effect gain to himself except by inflicting injury on the other party, and might nevertheless break faith, sell his produce, abscond with the money, and leave nothing but his land heavily mortgaged. In that case no punishment was provided. One reason why the framers of the Code had not provided a punishment probably was that the property was not in the legal possession of the person with whom the Contract had been made, and that the Law would not pursue it in order to enforce restitution. This was good as a rule to discriminate between offences and to define what should be dealt with as theft or breach of trust, and what should not be so treated. But it was not good as a rule to discriminate acts which should be deemed offences from those which should not. He knew of no test which could rightly be used for this purpose, except the great rule of the general welfare; and so long as a person who indirectly injured the prospects of another by the publication of a malicious statement was punished as a Criminal, he saw no reason why a person should not be so punished who knowingly and directly injured or ruined another by breaking in bad faith his formal obligations to him. The decision of the Council as to the propriety of making such acts penal might also be affected by their decision on the proposal in Mr. Sconce's Bill to give a Contractor a lien on the crop for which he had advanced. But to take another instance. Suppose that the cultivator already referred to, instead of fraudulently transferring his crop, had maliciously destroyed it. There was stringent provision against malicious mischief in the Penal Code. But on looking at the commentary of two learned friends of the mover of this Bill, he found that they expressed a doubt whether this provision of the Code applied to the very class of cases now instanced. This uncertainty should not remain. Or to take one other instance; the cultivator might neither transfer nor destroy his crop, but might maliciously leave his land uncultivated

demonstrably for the purpose of injuring another. This might occur in scores of cases at the same time in the same neighbourhood, and all might be clearly the result of animosities excited by one emissary whom there was no means of punishing for instigation or abetment as the substantive acts were not offences. These illustrations would suggest why he thought it would not be an unprofitable task to go over the Sections of the Penal Code bearing on this subject with a view to consider what amendments were desirable. He thought some enquiry the more necessary as facts relative to the Bill introduced last year had to some extent been misapprehended, and the proceedings of the Legislative Council on it were not sufficiently explained in the present Statement of Objects and Reasons. The Legislative Council did not allow that Bill to be published for general information, but referred it to a Select Committee, with authority fully to re-cast it; and those who voted for its second reading pledged themselves only to the principle that some revision and extension of the Law respecting fraudulent Breaches of Contract seemed desirable. Nevertheless arguments which might be valid against that Bill as originally drawn had been quoted as though they were equally valid arguments against every kind of Penal legislation in that direction. But this was an illegitimate assumption. It might be true that the former Bill was not restricted with sufficient clearness to cases of bad faith, and that it was open to some extent to a charge of one-sidedness, and that it did not sufficiently discriminate obligations arising from the status of servants and provisions justified by the analogy of the law of Master and Servant, from those relating to contracts between independent persons. Moreover, the provisions of that Bill respecting registration were confessedly insufficient. These objections might be quite valid against the special measure proposed last year, but of no validity as objections to a careful extension of the Criminal Law in another form. The general arguments against any such extension did not seem to be of much weight. Mr. Harington objected that any such extension would be retrograde and hostile to the spirit of recent legislation. But this, he apprehended, was a misapprehension. The spirit of modern jurisprudence was hostile to excessive severity, to such punishments as the pillory, and to the punishment of death for theft or forgery. But the number of Criminal offences as against property and credit and general trade had not been recently diminished. On the contrary, as the standard of morals rose in the community, the public conscience condemned a larger number of such acts; and as trade advanced, the danger of offences against commercial morality was more recognized. It was more clearly felt in such cases that the loss of one was the danger of many. And thus recent legislation had manifested itself in regard to frauds, fraudulent bankruptcy, and reckless insolvency. There were also reasons for some re-consideration of the Civil Law on this subject, and the Committee should not be restrained from reporting on them. He concurred with Mr. Harington that the Civil Procedure Code had effected a great improvement in the administration of justice, and perhaps in regard to regular suits little more was required. But it might be necessary to provide for the granting of summary injunctions to restrain from Breaches of Contract without suit—as in the case of a man not preparing to cultivate

a certain crop for which he had contracted, but making preparations to cultivate a different one. Indeed, it would be remembered that Mr. Sconce had argued very earnestly that the Civil Courts would probably not grant decrees for specific performance for contracts to cultivate, since they could not enforce execution of such decrees. It might be better that an injunction should be issued in anticipation of a Breach of Contract. There were other proposals of Mr. Sconce's which had been allowed silently to disappear. For instance, that of a Plaintiff being sometimes put in possession of a crop or in possession of land in which a crop was to have been cultivated. These propositions might be good or might not, but they ought not to be ignored. Mr. Sconce's proposition that a Contractor should have a lien on the crop grown for him had been noticed and supported by the Chamber of Commerce at Bombay; and even the Government there, though generally opposed to the proposed legislation of last year, observed that this particular remedy was only that with which the Government armed its own Collectors for the recovery of Revenue. He would submit that all these propositions should not be silently set aside. He must refer in conclusion to some of the details of the Bill. The first definition, that of "bad faith," went further than was proposed even by many who asked for a Criminal Law on this subject. In order to constitute bad faith, there should not only be an intentional Breach of Contract from a motive of interest, but a knowledge that the Breach would cause injury to another. Again, the definition of "damages necessary to indemnify a Plaintiff against all loss" was so large, including possible profits, that, taken in connection with the definition just referred to, and bearing in mind that the alternative might be imprisonment for two years with hard labor, it might operate with extreme severity. The Chief Justice had formerly objected to the Bill being confined to Contracts on advances, and he (Mr. Erskine) entirely concurred in that view. Mr. Ritchie seemed to desire the retention of this limitation, on the ground that a complainant should be able to claim the protection of this Act only when he had parted with some of his property and put himself in a worse position in reliance on the good faith of the opposite party. But he thought that a complainant might put himself in a worse position than before in reliance on a contract without giving advances—as for instance, if he chartered a vessel or incurred other liabilities on the strength of it. The one might be a matter only of a few Rupees, and the other of many thousands. This therefore, he thought, was not a judicious restriction. He would just call attention to the use of the word "wilfully" in Clause 2, and "wilfully" in Clause 3, as though it were tantamount to bad faith. He presumed that that was a misprint and was not intended. [Mr. Ritchie assented.] He would only further notice Sections 5 and 6 of the Bill, and must admit that he did not fully understand the principle on which they prescribed imprisonment with hard labor. It could not be as a penal infliction, because criminal legislation for such cases was repudiated. It could not be as a more stringent means of effecting the end for which imprisonment for debt was justified, *i. e.* getting at the debtor's property, because it was to be continued at the public expense even when there was no property. And it could not be as the best means of

reimbursing Government for the maintenance of the prisoners, because it was not industrial labor that was prescribed, and the very essence of hard labor was that, in the first instance, it should be penal and exemplary, and only remunerative in as far as was consistent with that object. He nevertheless sincerely desired that this Bill should go to a Select Committee, and would only again express a hope that they might be enabled greatly to improve it.

The Hon'ble Mr. Cowie said that he did not understand that this Bill provided any Criminal punishment for a Breach of Contract, as the Secretary of State had disapproved of that principle. But he believed that a Defendant under this Bill would suffer more than if he were prosecuted on the Criminal side, and the Complainant would certainly suffer more. So that he hoped that Mr. Ritchie in Committee would devise some more summary and less costly remedy. With reference to Mr. Harington's statement on the Civil Procedure, there was a general impression that suits occupied more time than he had stated.

The Hon'ble Mr. FITZWILLIAM stated that the European community generally, and many Natives engaged in trade, felt the necessity of some more stringent remedies for Breaches of Contract, and he hoped that, notwithstanding what Mr. Harington had said, the Bill would be referred to a Select Committee, and that the suggestions of Mr. Erskine and Mr. Cowie would receive the consideration they deserved.

Mr. FORBES said that the few observations which he wished to make would have no reference to the Bill which was introduced into the late Legislative Council, and which was applicable only to Contracts for the delivery of agricultural produce. His observation would be confined to the present Bill, which included all Contracts for which consideration had been given, and which, he could not but think, would include more than those who advocated the Bill at all contemplated. In his opinion the Bill, if passed into law, would have an action in that part of India with which he had been most connected, which would be very novel, very injurious, and little in accordance with the intentions of those by whom it was now supported. If he were not misinformed, a lease was a contract, and when land was made over for cultivation to any party for a specified rent it would, he imagined, form the consideration which would bring the lease or contract within the provisions of this Bill. Almost all land in the Southern part of India was held primarily under lease from Government, either permanently or temporarily—permanently, inasmuch as the Government could dispossess no lessee as long as he paid the permanently fixed assessment on the land; temporarily, inasmuch as any lessee could relinquish his lease at the commencement of any year from which he desired to be relieved from it. If he was correct in this assumption, it would follow that all the hundreds of thousands of holders of leases from Government in Southern India would be amenable to the proposed law, if from improvident expenditure on any private object they became unable to meet the public demand upon their land, and he could not but think that those who advocated this Bill should seriously consider the effect that its publication would be likely to have on the minds of the whole agricultural population of the Madras Presidency, when

it informed them that for the first time, since the British Government was established, they were liable to imprisonment with hard labor if by any improvidence they failed in ability to pay the assessment on their land. The point to which he desired to attract the attention of the Council appeared of more importance when the Bill was a little further considered. It would be to no purpose that a sentence of hard labor would be passed against a contractor under this Bill if there were to be no means of enforcing the sentence. The contractor would simply refuse to work, and the law would be defeated. But this point needed not to be argued, as the Council was well aware that the Sudder Court had ruled that the Prison Discipline Law was as applicable to those confined on the Civil as to those on the Criminal side of the Jail, and all that was necessary therefore was to consider what were the laws regarding Prison discipline. Confining himself to the Presidency to which he had at first referred, he would notice that by Regulation X of 1832 of the Madras Code, a person confined in Jail who might refuse to perform any hard labor to which he had been sentenced was liable to corporal punishment to the extent of 150 lashes, or three times the amount of punishment to which, by the Bill about to be introduced by the Hon'ble Mr. Beadon, those who committed grave and serious crimes were to be subjected; and by the same law, even a careless or negligent performance of an allotted task would render liable to sixty lashes any person who evinced such carelessness or negligence, this punishment even being more severe than was provided by Mr. Beadon's Bill for what were termed disgraceful crimes. Mr. Cowie had stated, when Mr. Beadon obtained leave to introduce his Bill, that he objected to all corporal punishment excepting in the case of juvenile offenders, and the Hon'ble gentleman had perhaps not sufficient acquaintance with the Criminal Law of the Mofussil to be aware that the present Bill would bring all who were adjudged to have fraudulently broken their Contracts within the scope of that punishment. It must be remembered, too, that the Prison Discipline Law made no exception. All classes and all races were alike subject to it, and the European as well as the Native would be liable to its provisions if, when confined in Jail for a Breach of Contract, he did not break stones quite so zealously as an impatient Jailor might wish. It would probably be in His Lordship's recollection that not very long ago the late Governor of Madras, Lord Harris, had issued a Commission of Enquiry into charges brought against the Native servants of enforcing the Government demand, and the Police Law, by harsh and illegal means, and he must confess his hope that, by the publication of the Bill in its present form, no ground would be given to the agricultural population of Southern India to suppose that it was the intention of the Legislature to legalize measures which every European Officer of Government had hitherto done his utmost to put an end to as illegal and oppressive. If the Bill were to be published in its present form he feared that it would have a very injurious effect, and he would urge Mr. Ritchie to consent that the Select Committee be appointed upon it should take into consideration the point he had now pressed, and should be instructed to make a preliminary report on the Bill under the 17th of the Standing Rules before it was published in the *Gazette*.

The Hon'ble the LIEUTENANT-GOVERNOR said that the Council had been invited by Mr. Erskine to enter on the consideration of very large questions, embracing one whole Department of the Law, probably the largest of all, and to revise the Penal Code, which, for twenty-five years, had engaged the attention of some of the ablest men in India. He certainly did not think that there was substance and bone enough in this Bill to make it a peg on which to hang such weighty questions. If a re-consideration of any of the topics suggested by Mr. Erskine were necessary, it would be better for some Hon'ble Member to address himself to the task and submit his views to the Council. He (Mr. Grant) would notice the only principle which he considered at present fairly came under discussion, and would enquire if this were not a Bill for the artificial encouragement of advances. In some degree he thought the Bill was open to that objection. He looked on the system of advances in this country as a great misfortune, and thought that it would be better, as far as possible, to check and reduce that system. The tendency of this Bill seemed to be on the other side, and therefore it was open to question. But he should vote for a Select Committee, reserving his right to vote hereafter as he might consider right. He wished, however, to enquire respecting the definition of damages, and to ask of Mr. Ritchie whether that definition would alter the substantive Law of damages as now administered in this country? They had heard of consequential damages, and he wished to know how far this Bill would carry the right to award such damages beyond the practice of the Courts under the present substantive Law.

The Hon'ble Mr. LAING said that Mr. Harington had assumed that this and the Bill of last year were brought in to meet a special case, that of Indigo. This was not the case. The principle of both Bills, *viz.* that breaches of Contract tainted with fraud should be criminally punished, was one applicable to all time, and of incalculable importance for the future welfare of India. He had been led to give that principle his warm support by two classes of considerations, material and moral. *Material.*—It appeared that, owing to the poverty of the Ryot who had not sufficient Capital wherewith to conduct his cultivation, a system of advances was almost universal in India for all descriptions of produce. Those advances were commonly made at most usurious rates, and not only oppressed the peasant but also unduly enhanced the price of produce. As an illustration he had only the other day had occasion to compare the prices of Bengal and Malwa Opium, and he found that the former was produced at a cost of 400 Rupees a chest while the latter cost 750 Rupees, and yet the actual cultivator of the poppy received a much better remuneration in the former case than in the latter. The difference was merely owing to the Government making advances in Bengal without interest, while in Malwa the Ryot was in the hands of middlemen who made him the requisite advances. The same thing applied to all other produce. Take Cotton. What mighty interests were depending on the question whether Indian Cotton could be produced permanently at a price to meet American. The transfer of a trade of £20,000,000 a year from America to India, and the extinction or perpetuation of slavery

were hanging on the question of a penny a pound, more or less, in the selling price of Indian Cotton at Bombay and Calcutta. The system of advances enhanced far more than a penny the cost price of almost every pound of Cotton produced in India. Why was the rate of interest on those advances so exorbitant? Mainly, no doubt, because capital was scarce, but to a considerable extent also because the security for the recovery of advances was imperfect. Bad security was only another word for high interest. England could borrow at three per cent, while America, with less debt in proportion to her resources, had to pay six or eight per cent. But then "repudiation" was a word of American and not of English growth. So in private transaction; give the best possible security for the enforcement of *bond fide* obligations, and you would get the lowest possible rate of interest consistent with the fair market relation between the supply and demand of capital. But give facilities for evading the payment of just debts, and the creditor must place on the honest debtor an extra charge for insurance against the risks which he ran from the dishonest one. Nor was this all. Give security to Capitalists, and capital would flow in from other quarters and cheapen the rate of interest. There was a superabundance of capital in England eager to seek profitable employment. Give it security in India, and it would flow here in a fertilizing stream. He did not expect that these results would follow at once as if by magic from passing this or any other Law, but he did believe that if they legislated in a right direction, like men building for the future, a very considerable effect would be produced ere long, especially at a time when India was, we might hope, entering upon a new era of power and prosperity. He was convinced this law would not, as the Lieutenant-Governor partly apprehended, tend to hold out any artificial encouragement to the present system of advances, but that on the contrary it would prove the most efficient means of accelerating the arrival of a state of things when advances might be discontinued altogether, and when the immense internal wealth of India might be brought into the market at a price regulated only by a fair wage for labor, a fair rent for land, and a fair interest and profit on capital employed. The second class of considerations which weighed with him was of a moral nature. They could not do a people a greater injury than to make legislation so complicated and technical that it held out facilities for evasion and chicanery, and did not correspond with the moral sense of the community. Legislation for all people, but more specially for an Oriental people, should be simple, summary, and in accordance with the dictates of common sense and natural equity. Now the existing English Law as to Contracts was founded on subtle distinctions which he defied any plain mind to appreciate. If he made a Contract with a man and took an advance from him intending at the time to break it, it was fraud, and he might be punished criminally. But if he changed his mind five minutes after he had signed the Contract, and because he thought it more for his advantage, deliberately repudiated his obligation, it was no fraud, but merely the subject of a Civil suit. In fact, the *repudiator* was in no worse position, as far as the law was concerned, than the honest but unfortunate debtor. This was subversive of all feelings of moral justice. It reduced the law to a mere game of chess to be played at by special pleaders

according to a set of technical rules. No people could stand the demoralizing effect of laws which opposed the moral sense, and held out a premium to chicanery. Even in England the demoralization produced among the class of petty traders by the over-lenient and technical Laws of Bankruptcy and Insolvency had been so great, that it had been found indispensable to amend those Laws and to introduce the very principle for which they were now contending, namely, that fraud should be punished. The Indian people were not naturally more untruthful than others. On the contrary, truthfulness was always recognized as a remarkable portion of the Indian character by the writers of antiquity. What a responsibility did they then incur if by introducing the complication and technicality of the worst parts of English Law, in a country where it was not understood, and where the administration of justice was necessarily imperfect, they created and fostered a spirit of litigation and chicanery. Honesty was the best policy, and as far as it was possible to do so by their Laws they were bound to make it a man's interest to be honest and to punish him if he was detected in fraud. For these reasons he heartily supported the motion.

The Hon'ble SIR ROBERT NAPIER stated that he agreed with the Lieutenant-Governor as to the evil of advances, and thought it would be better if the system could be abolished. But it would be long before they could expect that. In some Districts the people were so poor that they could not leave their homes to go to places where employment was obtainable without some advances to enable them. In his experience in public works he had generally found that the rural population to whom he had thus been compelled to make advances were honest. But when competition occurred for labor, as in the neighbourhood of great cities, the temptation to break contracts was very great, and there a Law like that proposed was required. But the present Bill had a larger scope than the Bill of last year. He thought it would be better to confine it to small cases, but that was a matter of detail which might be considered in Committee. He approved of the principle of the Bill.

The Hon'ble MR. BEADON said that it was very necessary to bear in mind the object of the Bill. Mr. Laing had truly said that the Bill of last year had not been introduced in favor of any one particular class, but on the broad principle that, where there was a fraudulent Breach of Contract on which advances had been made, that fraud should be punished. It happened that the preparation of the Bill had fallen to him, and he thought it desirable to frame it on the model of Act XIII of 1859. But he must state, as he stated before, that he believed the best course of all would have been that suggested by Mr. Erskine, namely, an extension of one Section of the Penal Code relating to Criminal Breach of Trust. That course would have been unexceptionable, and would meet most of the cases under this Bill. Section 405 provided—

"Whoever, being in any manner entrusted with property or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of Law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made

touching the discharge of such trust, or wilfully suffers any other person so to do, commits Criminal Breach of Trust."

But under that Law it would be necessary to prove dishonest misappropriation of a particular advance, and there were cases in which that could not be proved. The advance itself might not have been misappropriated, and yet the contract might be subsequently broken in bad faith. That Section could be enlarged; and though he thought that the Penal Code should not be lightly altered, and that at any rate it was not now necessary wholly to devise it, yet it must be remembered that it was not perfect, and the Chief Justice in his speech on the third reading had said that it must be considered as open to constant revision. He did not therefore think that there was any objection to the extension of that Clause. But the Secretary of State had objected to the application of Criminal Law to Breaches of Contract, and therefore he was prepared to accept Mr. Ritchie's Bill as an alternative, and as the best provision possible under the circumstances. But he wished to notice one particular point. Its operation extended to all Contracts on which any consideration had passed. He doubted the wisdom of that provision. It was not essential to the original design, which was to punish that which amounted to Criminal misappropriation or breach of contract, when cash had been advanced. Mr. Harington's suggestion was that the principle should be extended to all cases of damages. But this would launch the Council into a boundless and unknown sea. He would therefore prefer confining the Bill to cash advances. Mr. Harington and Mr. Forbes had dwelt on the dreadful consequences of imprisoning a large number of persons in Jail and subjecting them to the disgrace of penal imprisonment. But as the object was to prevent fraud, this very disgrace was desirable, as it might serve to check those who would disregard other consequences, and any man who would fraudulently break his contract might be safely left to be dealt with like other convicts. As to the effect of the Bill on the system of advances, he agreed with Mr. Laing that it would tend to check it, and the argument of Mr. Harington respecting Act XIII of 1859 supported that conclusion. He had stated that that Act had become practically inoperative, except that it had led the Tradesmen to oppose the system of advances. He believed that such would be the necessary effect of the present Bill, and therefore should cordially support it. But he suggested that it should be confined to cases in which the consideration consisted of payments in cash.

The Hon'ble the RAJAH DEO NARAIN SINGH said that there was no difference between the breach of a contract and the non-fulfilment of the conditions of a bond or mortgage, and therefore he could not see why imprisonment with hard labor should be awarded in one case, and not in the other. The Bill applied only to cases of breach of contract in bad faith and without reasonable excuse. But the honesty or dishonesty of a man's intentions were scarcely susceptible of proof, and the Bill did not define what was a reasonable excuse. One principal cause of breaches of contract was that Capitalists entered into contracts without ascertaining the ability of the other party to fulfil them. It was true that from breach of contract heavy losses ensued, but the Laws provided for the recovery of

damages, and he saw no occasion for the addition of imprisonment with hard labor. In his part of the country, Sugar refiners, after entering into contracts with the cultivators for raw material equal to a certain given sample, often changed the sample with a view to lower the value of the produce supplied by the cultivator. The cultivator in such a case was forced either to break his contract or to take whatever price the manufacturer might choose to put upon the articles supplied. The fault here clearly lay with the manufacturer. Yet in that, and in many other cases, imprisonment with hard labor would, by this Bill, fall on the Contractor. Contracts were entered into in this country with builders and others, and advances were made when it was well known at the time by the parties that the work could not be accomplished in the time specified. Yet in this case also the builders might be imprisoned. Capitalists already by means of their money had power over the poor and needy, and it did not seem expedient that the Law should step in and increase their power. He therefore thought that this Bill, far from being beneficial to the country, would give rise to constant disputes and cause the ruin of many. He thought also that it would be injurious to trade, for, if a Capitalist could cause a Contractor to be imprisoned with hard labor, such persons would, as far as they had the power, abstain from entering into contracts. He also noticed that the Bill had no provision for the due attestation of contracts so as to prevent their being tampered with by either party. Nor was the case provided for of the payment of the consideration by instalments, or the case of a Contractor, after fulfilling part of his contract, stopping short on account of the vexatious objections of the other party.

The Hon'ble SIR BARTLE FRERE said that he supported the motion for referring the Bill to a Committee, not because he thought it perfect, but because the Bill was practically a complete and useful measure. He did not feel that the objections to it carried great weight. Mr. Harington stated that the Bill introduced new principles. But this might be an advantage. Let the Council remember the state of our English Law some years ago. Though the law of a nation so advanced in civilization, there was extreme severity against indebtedness, so extreme, that special legislation was unnecessary. In fact, a man unable to pay a debt might be imprisoned for life, though innocent of fraud. The general sense of the community controlled the law by refusing to put it in force, and subsequently the law itself was greatly relaxed. It had, however, been recently felt that the relaxation had been too great, and there had been a tendency to deal more severely with some cases. As to the new principle of supporting the private debtor at the expense of the State, it was impossible to say where the private injury ended and the public injury began. Mr. Harington objected to the limitation of the Bill to cases in which consideration had been paid. But he regarded this as a wise provision, for every person who wished to avoid coming under the law might relieve himself by refusing to take consideration. It was not open to Mr. Harington, who opposed the principle of the Bill, to contend that the Bill did not go far enough. The law must be regarded as a general law, and though there might be practical difficulties in particular Districts, yet the strong

call from various parts of the country for some legislation of the kind showed the general want. Mr. Forbes feared that leases would be embraced. But it would be easy to provide that Revenue defaulters should be exempted. The amount of punishment in Jail was a question of Prison discipline. The Lieutenant-Governor had said that he feared that the tendency would be to encourage advances. If he (Sir Bartle Frere) had any doubt on that point, he would vote against the Bill. His impression was that it would have the contrary effect. The evils of the present system arose largely from want of capital, want of security, and want of roads and communications, and to these had been added the inefficiency of our Civil Procedure. Mr. Harrington had described the recent great improvements in that. But the cases to which this Bill would apply would generally be petty cases, and the redress required in them must be rapid and summary. This Bill, by giving power to punish fraud when advances had been received, would do more than anything to prevent men insisting on advances. Their present reasons for doing so were partly custom, and partly the desire to have the employer in their power. He (Sir Bartle Frere) knew that, in some places near Calcutta, Capitalists, by acting with firmness, had succeeded in putting an end to the system, and had derived great benefit from the change.

His Highness the MAHARAJAH OF PUTTALA said that, as he had only had the Bill for two or three days, he should prefer expressing his opinion on it on a future occasion. He had been recently directing his attention chiefly to the Stamp Bill.

The Hon'ble Mr. RITCHIE said that the supporters of this Bill were exposed to the remarks which were usually directed against those who took a middle course. It was open to some to contend that the Bill went too far, and to others that it introduced punitive remedies. Mr. Harrington took both sides, but the Bill was not open to the objection that it was at once too severe and too lenient. It was idle to discuss the question whether Criminal Courts should have the jurisdiction. The Secretary of State had decided that, and it remained for the Council to do what it could through the Civil Courts. It was objected that the Bill introduced a violent change. But the law, as it at present stood, made no distinction between the honest and dishonest debtor, while this Bill merely sought to provide a special remedy where there was fraud by the award of full compensation or imprisonment. What objection could there be to that? The tendency of modern legislation was in the same direction. Formerly a Trustee could with impunity, so far as the Criminal Law was concerned, commit any breach of trust, but the Law now rendered him liable to prosecution and punishment. So the Bankruptcy Act, while it afforded every facility to the honest debtor to relieve himself on the surrender of his whole property, dealt with the unfair trader as a criminal, and rendered him liable to twelve months' imprisonment in cases where fraud tainted his transactions in contracting his debt, or where he had placed his property out of the reach of his creditors. In this Bill the attempt was made to prevent fraud by acting on the same principle. He agreed with Mr. Erskine that, as the standard of morality advanced, the number of offences of which the Law would take cognizance would be more numerous. Formerly, when a man

was charged with obtaining money under false pretences, the Courts would treat him simply as a cheat who had made a fool of the prosecutor. But now obtaining money under false pretences was dealt with as a substantive offence. With reference to special legislation it was not necessary to discuss that subject now, for this Act was not special but general. At the same time he must say that, if he had been in the Council last year, he should warmly have supported Mr. Beadon's Bill. An objection, however, had been felt to the jurisdiction of Criminal Courts in cases where equities might have to be determined. But equities would not arise in the class of cases to which that Bill applied, or those that fell under Act XIII of 1859. In England the only cases of Breach of Contracts submitted to the Criminal Courts were those which had the ingredient of simplicity, with which a Justice of the Peace might deal by mere common sense and every day experience. When cases of a more complicated character arose, there might be objection to the jurisdiction of the Criminal Courts. But the question was, what should be the remedy when an honest creditor was deprived of a benefit for which he had contracted by a dishonest debtor? Mr. Erskine's argument was in favor of a penal remedy. But the line of enquiry he proposed was too wide. He (Mr. Ritchie) must decline entering on a preliminary enquiry. Materials enough were before them to show that the dishonest debtor should not be treated as an honest debtor. The Bill provided that he should not be so dealt with in respect to the amount of damages. The Lieutenant-Governor enquired if the definition in the Bill as to damages made any alteration in the substantive Law on the subject. The present Bill certainly would alter the Law as now administered in the English Courts. But he could not say that it would alter the Law in the Mofussil Courts, and it was doubtful how far it would alter it, even in the English Courts, in cases in which the amount of damages was open. The innovation that would be made, however, would only amount to allowing a difference in the amount of damages in honest and dishonest Breaches of Contract. The law deemed it unreasonable to give a larger amount of damages than it assumed the defendant could reasonably have contemplated when he entered into the Contract. But that rule did not apply in morality or common sense to the case of a debtor who had dishonestly broken his contract with the design to injure the plaintiff. It had been considered that the Law of damages was settled in a leading case a few years ago, in which a miller sued a public carrier for delay in delivering a wheel, in the absence of which he could not carry on his trade. It was held that he was not entitled to all the profits he had lost by the want of that wheel, for the public carrier could not have been aware that it was the only one he had, or could obtain. That might be a reasonable decision; but if a manufacturer who contracted to make an article by a particular day broke his contract in bad faith and without reasonable excuse, the case might be different. He (Mr. Ritchie) had known cases in Calcutta in which goods had been shut out of the last ship of the season, although the shipowner had contracted to take them; and the plaintiffs had recovered only nominal damages. That might be fair when they were shut out accidentally. But if a shipowner

from motives of interest excluded the goods he had contracted to carry, and took his own goods instead, the plaintiff should be entitled to full damages and indemnification. Mr. Forbes' objection respecting the Government Ryots in Madras had been met by Sir Bartle Frere. The question as to the mode of enforcing hard labor was a question of Prison discipline. He could not understand the authority of the rule respecting flogging to which Mr. Forbes had referred. [Mr. Forbes said that it was a law.] Here in the House of Correction hard labor had been enforced on some desperate offenders without any flogging; and if the law were now about to be altered, it was only because such offenders sometimes might require severe measures. With respect to leases he thought it right that the Law should apply; but it should not extend to the refusal to pay Government Revenue, and in that respect the Bill should be amended. He would not enter at length into the details of the Bill, but he thought it right to adhere to its provisions respecting consideration, notwithstanding what had been urged by Mr. Beadon. On this point of consideration opposite objections had been urged. The Bill, however, did not affect to deal with all contracts, but only with those in which there was a certainty that the position of the plaintiff had been changed for the worse by his having given a consideration beyond a promise. Contracts resting on mutual promises did not afford the same ground of certainty. He regretted to differ from so high an authority as the Chief Justice on this point. The definition of "bad faith" might be improved; but the object of the Bill must be kept in view, as that object was stated in the Preamble, namely, "that it is just and expedient that defendants in Civil suits who have broken their contracts in bad faith, without reasonable excuse, after receiving consideration for the same, shall be liable to stricter provisions in regard to the judgment and execution to be awarded against them than defendants whose failure to perform their Contracts has not been in bad faith or without reasonable excuse." It was just, because the dishonest and tricky debtor should not be dealt with on the same footing as the honest and unfortunate one; and it was expedient because it would tend to encourage honest commerce and to discourage fraud.

The motion was put and agreed to.

The Hon'ble Mr. FORBES introduced the Bill relating to Emigration to the British Colonial Dependency of Seychelles, and moved that it be referred to a Select Committee.

The motion was put and agreed to.

The Hon'ble Mr. BEADON moved for leave to bring in a Bill to provide for the service of legal process issued against His Majesty the King of Oude, and for taking the examination of his said Majesty when required as a witness. He stated that the object of this Bill was to fulfil the promise and the expectation held out to the King of Oude after the annexation, that he should continue to be treated with all royal dignity. After the King refused to accept the Treaty tendered to him by Lord Dalhousie, he had placed himself at the disposal of the Government. But the Government were then prepared to pay him still the pension which they had offered, and to treat him with the same dignity as if he had accepted the Treaty. Afterwards it became necessary to place him under arrest, and subsequently to that, on his release, he had applied to be

placed in the position previously offered to him; and the Government were willing to fulfil their promise of 1856, withholding only dependent jurisdiction in his own residence. The present Bill, therefore, would exempt him from the process of the Criminal Courts except in the case of treason and murder. In ordinary cases Government might appoint a Commission to investigate the charge. As to Civil Courts he would be placed on the same footing as the Nawab of the Carnatic had been. Process would be issued against him only with the previous sanction of Government, and he would be exempted from personal attendance as a witness in the Civil Courts.

The motion was put and agreed to.

The Hon'ble Mr. RITCHIE moved for leave to bring in a Bill to provide for the dissolution in certain cases of marriages entered into by Converts before their conversion. He said that the object of this Bill was to settle the Law respecting the marriage of Converts from one religion to another. Doubts had been excited as to the continuing validity of such marriages and as to the legitimacy of the issue. Considerable evil had thus resulted to individuals, and some reproach rested on the State for the continuance of such a state of things. There should at any rate be certainty with respect to the Law. Unfortunately, there was considerable difference of opinion as to the state of the Law among those who had most considered the question. The question arose in the case of a person who left the faith which he professed when he was married, and was left by his wife on his conversion. There were two extreme opinions on the subject. One was, that the existing marriage tie continued as before, binding on the unconverted wife, and that the Law should enforce the conjugal rights of the husband. The other was, that on conversion the marriage tie was as absolutely dissolved as if the converted party were dead, without leaving it to the other party to elect whether to continue in the married relation or not. In his (Mr. Ritchie's) opinion both these opinions were incorrect. To hold that the marriage tie continued precisely as before would be repugnant to the feelings and opposed to the usages of the people. In one case, under a decision of a learned Judge at Madras some years ago, the public had seen the infant wife of a Hindoo Convert, against her own remonstrances and the remonstrances of her family, handed over to her husband after his conversion, though both she and they considered that degradation was involved in it. This Bill would prevent the recurrence of such cases. The other opinion had more plausible support. Some Hindoo and Mahomedan Lawyers considered that the marriage bond was dissolved. He (Mr. Ritchie) concurred in opinion with Sir James Colville, when Advocate-General, and with Sir Charles Jackson, that the marriage bond subsisted, but that no Court in India, under the circumstances, could enforce the conjugal rights, or had authority to dissolve a marriage simply upon the ground of conversion. But the marriage subsisting, the incidents of the marriage must follow the Law under which it was contracted. But on conversion of one of the parties, that Law could not be fully applied, and there was no *lex loci* that could be called in aid. The Hindoo or Mahomedan, previous to his conversion, might contract a second marriage while the first subsisted. But their Laws would not give a dissolution of marriage for the purpose of enabling

them to marry again, and did not distinguish between a separation *a mens et thoro* and a dissolution *a vinculo matrimonii*. In this state of things irregular marriages prevailed, and in some instances concubinage. Many marriages had been celebrated by conscientious persons who believed that on the conversion of one party the former marriage had been dissolved. Where Sir James Colville's opinion had become known, that practice seemed generally to have been given up. But the same forbearance was not shown in all places, and the time appeared to have come for a settlement of the question. The Bill would declare that, on the conversion of any husband from any of the religions of India except the Christian religion, if the wife separated herself from her husband, the husband might apply to a Judge to enquire, in a manner consistent with the customs of the country, into her willingness to live with him, and the Judge should then record what took place. If she refused to live with him, then, if there were no children, after an interval of one year, or after an interval of two years if there were children, the Judge might declare the marriage dissolved. If the wife were an infant under twelve years, the examination would be postponed till she attained that age. The Bill would be confined to the case of a husband's conversion for very different considerations prevailed in the case of a wife. As the husband might, prior to his conversion, take a second wife, it could not be imputed to him that he had changed his faith for the purpose of marrying again. But that imputation and suspicion might rest on the wife if she, by changing her faith, could procure a dissolution of her marriage.

The motion was put and agreed to.

The Hon'ble Mr. RITCHIE moved for leave to bring in a Bill to amend Act XVIII of 1843, (relating to the imprisonment in British Jails of persons convicted of certain offences in the Courts of Foreign States). He stated that the Act XVIII of 1843 authorized persons in charge of British Jails to receive into custody persons convicted of Thuggee and Dacoity in Native States, and the object of this Bill was to extend that provision to Suttee and Burying alive, and a provision would be added authorizing the Governor General in Council to extend this power to other offences.

The motion was put and agreed to.

The Hon'ble Mr. HARRINGTON moved the introduction of the following Rule after No. 15 of the Rules for the conduct of business:

"No Bill shall be introduced until seven days after a copy of the Bill and of the Statement of Objects and Reasons has been furnished to each Member."

He said that the only object which he had in view in moving the introduction of this Rule was to ensure that a copy of every Bill proposed to be introduced into the Council, and of the Statement of Objects and Reasons, should be in the hands of Hon'ble Members a sufficient time to admit of their carefully and fully considering the same before they were called upon to discuss the principle of the Bill and its detailed provisions. The Rules, as now framed, contained no provision on the point. An incident at to-day's Meeting of the Council showed the necessity of the Rule which he had proposed. They had been deprived of the benefit of the opinion of their Colleague,

His Highness the Maharajah of Puttiala, on a very important Bill debated to-day, in consequence of a copy of the Bill having reached him only the day before yesterday. In the Rule proposed by him he had fixed the same time as prescribed by Rule 23 before the Report of a Select Committee on a Bill could be taken into consideration. He did not think that a less time should be allowed before the Council were required to discuss the principle of a Bill and its detailed provisions.

His Excellency the PRESIDENT said that he entirely concurred in the expediency of introducing the Rule proposed by Mr. Harrington, and thought that its omission was a mere oversight in drafting the Rules. Its adoption would prevent the repetition of the occurrence of to-day, whereby the Native Members had been deprived of the full opportunity of considering the Bill which had been discussed in Council.

The Hon'ble Mr. RITCHIE said he thought that three or four days would suffice, and that, if any Hon'ble Member required a longer time, he could apply to the mover of the Bill, who would be always ready to meet his convenience.

His Excellency the PRESIDENT said that it would be better to have the Rule strict and to relax it when necessary, than to render it lax and then to prevent a Member from proceeding with a Bill unless the papers had been circulated for a longer period.

The Hon'ble Mr. BEADON said he thought that the Rules should be made as elastic as possible, and that there should be no obstruction or delay in proceeding with a Bill before the Council. In any special case a Bill could be postponed; as on the present occasion, he had no doubt, that, if the Maharajah had applied for a delay, the mover of this Bill would have willingly consented. He thought it might be desirable to follow the practice of the Legislative Council, and have a Standing Orders Committee, consisting of the President and two other Members, to whom all proposals of this kind could be referred.

Mr. FORBES stated that four days' notice would practically be reduced to two, for the papers were circulated on the evening of the first day, and discussion took place on the morning of the fourth.

The Hon'ble SIR BARTLE FRERE was in favor of the proposition for seven days.

The motion was put and agreed to.

The following Select Committees were named:—

On the Bill relating to reaches of Contrato committed in bad faith—the Hon'ble Messrs. Beadon, Ritchie, Harrington, Erskine, and Cowie.

On the Bill for regulating the Bank of Bengal—the Hon'ble Messrs. Laing, Ritchie, Cowie, Fitzwilliam, and Rajah Deo Narain Singh.

On the Bill relating to Emigration to the British Colonial Dependency of Seychelles—the Hon'ble Messrs. Ritchie and Forbes.

The Council adjourned till Wednesday, the 19th instant, at 11 A. M.

M. WILKIE,

Deputy Secy. to the Govt. of India,
Home Department.

CALCUTTA,
The 12th February 1862. }